

THE ONE HUNDRED AND NINETEENTH DAY

CARSON CITY (Sunday), May 31, 2009

Senate called to order at 12:05 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

We open our hearts to You, our Father, and pray that Your Spirit may dwell inside each one of us and give us poise and power. We believe in You, O God. Give us the faith to believe what You have said. We trust in You, O God. Give us faith to trust You for guidance in the decisions we have to make.

Help us to do our very best this day and be content with today's troubles so that we shall not borrow the troubles of tomorrow. Save us from the sin of worrying, lest stomach ulcers be the badge of our lack of faith.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were rereferred Senate Bills Nos. 208, 212, 303, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Senate Concurrent Resolution No. 26; Assembly Concurrent Resolution No. 30, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

JOYCE WOODHOUSE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 242, Amendment No. 978, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 982 to Assembly Bill No. 494.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 963 to Assembly Bill No. 223; Senate Amendment No. 975 to Assembly Bill No. 385.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, Anderson and Carpenter as a Conference Committee concerning Assembly Bill No. 88.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the reports of the Conference Committee concerning Assembly Bills Nos. 60, 259.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 26.

Resolution read.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 991.

"SUMMARY—Provides for an interim study on employee misclassifications. (BDR R-1297)"

SENATE CONCURRENT RESOLUTION—Providing for an interim study on employee misclassifications.

WHEREAS, Certain employers in Nevada may improperly classify persons they hire as "independent contractors," when those workers should be classified legally as "employees"; and

WHEREAS, The practice of employee misclassification can be an attempt by some employers to avoid their legal obligations under federal and state labor, employment and tax laws, including the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and federal income tax; and

WHEREAS, The practice of employee misclassification has serious adverse effects on the residents, businesses and economy of Nevada because this practice: (1) increases the uncertainty of collecting unemployment taxes; (2) unfairly shifts the tax burden to the overwhelming majority of Nevada employers who adhere to federal and state labor laws; (3) allows employers who misclassify their employees an unfair competitive advantage over law-abiding businesses; and (4) undermines fundamental laws intended to ensure employees receive legally required employment insurance, workers' compensation and other workplace protections; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to appoint an interim subcommittee to determine the scope of the problem of employee misclassification in this State, including ramifications in terms of economic losses for employees and lost revenues for this State and for local governments, proposals for state processes to identify employee misclassification, potential penalties for employers engaging in employee misclassification and legal recourse for affected employees; and be it further

RESOLVED, That the interim subcommittee must consist of five members as follows:

1. One member of the Senate;
2. One member of the Assembly;
3. One representative of management ~~and who works for an entity in the construction industry that has not signed an agreement with a labor union;~~
4. One representative ~~of~~ ~~from the construction industry who is a member of a labor union;~~ and
5. One representative of the general public; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 76th Session of the Nevada Legislature.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Amendment No. 991 revises provisions concerning the membership of the interim study and the appointment of the chair and the vice chair. This amendment revises the membership of the committee changing the wording about members representing labor and management to state that there will be one representative of management who works for an entity in the construction industry who has not signed an agreement with the labor union and one representative of union labor from the construction industry and specifies that the chair and the vice chair must be legislative members as selected by the Legislative Commission.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senator Care moved that Assembly Concurrent Resolution No. 30 be taken from the Resolution File and placed on the Resolution File on the next agenda.

Motion carried.

Senator Care moved that Assembly Bill No. 355 be taken from the Secretary's desk and placed on the General File on the next agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 208.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 983.

"SUMMARY—~~[Excludes certain occupations from]~~ *Authorizes public utilities and local government franchisees to increase their rates to account for a legislative change in the rate of the payroll tax imposed upon* ~~[financial institutions.]~~ *certain businesses.* (BDR ~~[32]~~ S-1142)"

"AN ACT relating to taxation; ~~revising the definition of "financial institution" for the purposes of an excise tax based upon the wages paid by financial institutions to exclude certain occupations;~~ *authorizing public utilities and local government franchisees to increase their rates to account*

for a legislative change in the rate of the payroll tax imposed on certain businesses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Chapters 363A and 363B of NRS impose excise taxes upon employers based upon the wages paid by the employer. The tax imposed pursuant to chapter 363A is imposed upon financial institutions and is imposed at a higher rate than the tax imposed pursuant to chapter 363B, which applies to all other employers. This bill amends the definition of "financial institution" for the purposes of chapter 363A of NRS to exclude certain occupations from the definition. As a result, persons who work in the occupations excluded from the definition would pay the excise tax pursuant to chapter 363B of NRS rather than 363A of NRS. The occupations excluded by paragraph (b) of subsection 1 of section 1 of this bill are: (1) securities broker dealers, sales representatives and transfer agents (NRS 90.310); and (2) investment advisers and representatives of investment advisers (NRS 90.330). The occupations excluded by paragraph (d) of subsection 1 of section 1 include the occupations required to be designated or registered under the following federal acts: (1) The Commodity Exchange Act (7 U.S.C. §§ 1 et seq.), which provides for the registration or designation of contract markets, derivatives transaction execution facilities, futures commission merchants, introducing brokers, floor brokers and floor traders, commodity trading advisors and commodity pool operators, certain associates of futures commission merchants, introducing brokers, commodity trading advisors and commodity pool operators, derivatives clearing organizations and futures associations; (2) The Securities Exchange Act of 1934 (15 U.S.C. §§ 78a et seq.), which provides for the registration of national securities exchanges, securities information processors, brokers and dealers, securities associations, municipal securities dealers, government securities brokers and dealers and clearing agencies and transfer agents; (3) The Public Utility Holding Company Act of 1935 (15 U.S.C. §§ 79 et seq.), which provided for the registration of holding companies for electric utility companies and gas utility companies and which was repealed effective February 8, 2006, no longer requiring the registration of these companies for the purpose of engaging in unregulated business; (4) The Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), which provides for the registration of investment companies, including face amount certificate companies, unit investment trusts and management companies; and (5) The Investment Advisers Act of 1940 (15 U.S.C. §§ 80b-1 et seq.), which provides for the registration of investment advisers.]~~ *Section 3 of Senate Bill No. 429 of this session revises the rate of the payroll tax imposed on certain businesses other than financial institutions. This bill authorizes public utilities and local government franchisees to increase their rates in an amount estimated to pay for any additional tax liability they incur before July 1, 2011, as a result of that section.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 2 of this bill and replace with the following new sections 1 and 2:

Section 1. 1. *Notwithstanding any other provision of law to the contrary, a public utility or local government franchisee may increase its previously approved rates by an amount which is reasonably estimated to produce an amount of revenue equal to the amount of any additional tax liability incurred by the public utility or local government franchisee before July 1, 2011, as a result of the provisions of section 3 of Senate Bill No. 429 of this session.*

2. *A public utility or local government franchisee that increases any previously approved rate pursuant to subsection 1 shall, not later than 60 days after that increase becomes effective, report to each governmental entity whose approval, if not for the provisions of that subsection, would otherwise be required for that increase:*

(a) *The amount of that increase; and*

(b) *The formula and information used to determine the amount of that increase.*

3. *For the purposes of this section:*

(a) *"Local government franchisee" means a person to whom a local government has granted a franchise for the provision of services and who is required to obtain the approval of a governmental entity to increase any of the rates it charges for those services.*

(b) *"Public utility" means a public utility that is required to obtain the approval of a governmental entity to increase any of the rates it charges for a utility service.*

Sec. 2. *This act becomes effective upon passage and approval and expires by limitation on June 30, 2011.*

Senator Mathews moved the adoption of the amendment.

Remarks by Senators Mathews, Hardy and Coffin.

Senator Mathews requested that the following remarks be entered in the Journal.

SENATOR MATHEWS:

This amendment authorizes public utilities and local government franchisees to increase their rates to account for a legislative change we have made in the Modified Business Tax (MBT).

SENATOR HARDY:

I rise in support of the amendment. This amends the bill I brought forth in its entirety and replaces it with this language. I understand the reason we cannot process the original bill at this time due to the fiscal impact. The bill was to look at certain financial advisors who currently in the law are considered financial institutions. This passed the policy committee in this House. I would ask the body, as we go forward, to look at the issue as we examine the tax structure to make certain the small business is taken out. I am happy to have this vehicle that the Chair of Commerce and Labor has agreed to have brought forward considered in future sessions.

SENATOR COFFIN:

In the Senate Taxation Committee, we considered Senate Bill No. 208. It was a good bill. We passed it and sent it to the Committee on Finance because of the fiscal impact. Since 2003, there

appears to have been an inequity in the MBT. There is a different MBT for financial institutions. The approach to remedying this encompassed a lot of people who were not intended to be affected. Small business people testified. There was no money available to mitigate the impact to the General Fund during this Session. This issue deserves to be brought up during the next Legislative Session.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Assembly Bill No. 451 be taken from the Second Reading File and placed on the Second Reading File on the next agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 212.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 984.

"SUMMARY—Revises provisions governing initiative petitions. (BDR 24-649)"

"AN ACT relating to initiative petitions; providing a procedure for a petition proposing a statute, an amendment to a statute or an amendment to the Constitution to be placed on a ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that an initiative petition proposing a statute, an amendment to a statute or an amendment to the Constitution be signed by a number of registered voters that is equal to at least 10 percent of the voters who voted at the last preceding general election. (Nev. Const. Art. 19, § 2) Existing law also requires an initiative petition be signed by a number of registered voters from each county in the State that is at least equal to 10 percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county. (NRS 295.012) The United States District Court for the District of Nevada declared that the current existing law violates the Equal Protection Clause of the United States Constitution because it results in the signatures of voters from counties with lower population carrying more weight than the signatures of voters from counties with higher population. (*Marijuana Policy Project v. Miller*, 578 F.Supp. 2d 1290 (D. Nev. 2008)) This bill repeals and replaces the current existing law.

Section 3.2 of this bill requires the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. Section 14 of this bill defines "petition district" to mean congressional district until July 1, 2011, at which time the Legislature must have established petition districts for the period after that date. Section 3.4 of this bill requires the Director of the Legislative Counsel Bureau to retain a copy

of maps of the petitions district and make them available to any interested person for a reasonable fee not to exceed the actual cost of producing the copy. Section 12 of this bill requires a petition for initiative ~~for referendum~~ to be signed by a number of registered voters in each ~~assembly~~ *petition* district in the State that equals at least 10 percent of the voters who voted in that ~~assembly~~ *petition* district in the last preceding general election. ~~[Section 3 of this bill requires the Secretary of State to conduct a hearing on each constitutional amendment or statewide measure proposed by initiative or referendum that will appear on the ballot at the general election.]~~

Section 5 of this bill requires the Secretary of State to determine, as soon as practicable after each general election, the number of signatures required to be gathered from each ~~assembly~~ *petition* district. Sections 6-9 of this bill provide procedures for the verification of signatures on a petition proposing a statute, an amendment to a statute or an amendment to the Constitution. Sections 7 and 9 require the Secretary of State to adopt regulations concerning these procedures. Section 10 of this bill requires the Secretary of State to provide on his website a current list of the registered voters in this State that indicates the ~~assembly~~ *petition* district in which each registered voter resides. Section 13 of this bill ~~authorizes a circulator of a petition to provide a registered voter access to the Internet through an electronic device for the purpose of determining the assembly district in which the voter resides.]~~ *allows a voter to consult the website of the Secretary of State to determine within which petition district he resides and to rely on that information.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as ~~sections 2 and 3~~ *section 2* of this act.

Sec. 2. ~~["Assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of members of the Assembly.] "Petition district" means a district established by the Legislature pursuant to section 3.2 of this act.~~

Sec. 3. ~~1. For each constitutional amendment or statewide measure proposed by initiative or referendum to be placed on the ballot by the Secretary of State, the Secretary of State shall, not less than 60 days before the election in which the initiative or referendum will appear on the ballot, conduct at least one public hearing pursuant to this section.~~

~~2. The Secretary of State shall provide notice of any hearing held pursuant to subsection 1. The Secretary of State shall:~~

~~(a) Place a notice of the time, date and place of the hearing on his Internet website at least 30 days before the date of the hearing.~~

~~(b) Cause notice of the time, date and place of the hearing to be published on three dates of publication before the hearing, the last of which must be at least 5 days before the hearing, in at least one newspaper of general~~

~~circulation in each county of the State. There must be at least 10 days from the first to last dates of publication, including both the first and last days.~~

~~(c) Mail notice of the time, date and place of the hearing to each member of the two committees appointed pursuant to NRS 293.252 at least 10 days before the date of the hearing.~~

~~(d) Mail notice of the time, date and place of the hearing to each person or group of persons who submitted a petition for initiative or referendum to a county clerk. (Deleted by amendment.)~~

Sec. 3.2. 1. The Legislature shall establish petition districts from which signatures for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to section 3.4 of this act.

Sec. 3.4. The Director of the Legislative Counsel Bureau shall:

1. Retain in an office of the Legislative Counsel Bureau, copies of maps of the petition districts established pursuant to section 3.2 of this act.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

3. File a copy of the maps with the Secretary of State.

Sec. 4. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, and section 2 of this act, have the meanings ascribed to them in those sections.

Sec. 5. NRS 293.127563 is hereby amended to read as follows:

293.127563 1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each ~~{county}~~ ~~{assembly}~~ petition district within the State for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State.

2. To determine the number of signatures required to be gathered from ~~{a county,}~~ ~~{an assembly,}~~ a petition district, the Secretary of State shall ~~{multiply}~~ calculate the amount that equals 10 percent of the voters who voted in ~~{the entire State}~~ that {assembly} petition district at the last preceding general election. ~~{by the population percentage for that county.}~~

~~3. As used in this section:~~

(a) ~~"Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e).~~

(b) ~~"Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e), by the total population of the State.]~~

Sec. 6. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents *and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each ~~assembly~~ petition district contained fully or partially within his county* and forward that information to the Secretary of State.

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

Sec. 7. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county ~~and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each ~~assembly~~ petition district contained or fully contained within his county.~~

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his determination.

4. *In the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, when the county clerk is determining the number of registered voters who signed the documents from each ~~assembly~~ petition district contained fully or partially within his county, he must use the statewide voter registration list available pursuant to NRS 293.675.*

5. Except as otherwise provided in subsection ~~{6.}~~ 7, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination, *including the tally of signatures by ~~assembly~~ petition district, if required,* and transmit the documents with the certificate to the Secretary of State. *If ~~for an assembly~~ a petition district comprises more than one county and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate.* A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

~~{5.}~~ 6. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

~~{6.}~~ 7. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

~~{7-}~~ 8. The Secretary of State ~~{may}~~ shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 8. NRS 293.1278 is hereby amended to read as follows:

293.1278 1. If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 ~~{-}~~ and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each ~~assembly~~ petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient ~~{-}~~ and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each ~~assembly~~ petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

Sec. 9. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are

valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. Except as otherwise provided in this subsection, if the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State, if the statistical sampling shows that the number of valid signatures in any ~~{county} {assembly} petition~~ district is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that ~~{county} {assembly} petition~~ district pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk ~~in that~~ or county clerks, if the ~~{assembly} petition~~ district comprises more than one county, pursuant to NRS 295.055, the Secretary of State may order the county clerk to examine every signature for verification.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk or county clerks shall determine from the records of registration what number of registered voters have signed the petition ~~{}~~ and, if appropriate, tally those signatures by ~~{assembly} petition~~ district. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition ~~{}~~ and in determining in which ~~{assembly} petition~~ district the voters reside, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk or county clerks shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. *In the case of a petition*

to propose a statute, an amendment to a statute or an amendment to the Constitution, if ~~for an assembly~~ a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the amended certificate.

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

8. *The Secretary of State shall adopt regulations to carry out the provisions of this section.*

Sec. 10. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; ~~and~~

(c) *A current list of the registered voters in this State that also indicates the ~~assembly~~ petition district in which each registered voter resides;*

(d) *A map or maps indicating the boundaries of each ~~assembly~~ petition district; and*

(e) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 11. Chapter 295 of NRS is hereby amended by adding thereto a new section to read as follows:

~~["Assembly district" means a district] [created pursuant to the provisions of chapter 218 of NRS for the election of members of the Assembly.]. "Petition district" has the meaning ascribed to it in section 2 of this act.~~

Sec. 12. NRS 295.012 is hereby amended to read as follows:

295.012 ~~[1.]~~ A petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution must be proposed by a number of registered voters from each ~~[county]~~ ~~assembly]~~ petition district in the State that is at least equal to 10 percent of the voters who voted in ~~[the entire State]~~ ~~that [assembly]~~ petition district at the last preceding general election. ~~[multiplied by the population percentage for that county.]~~

2.—As used in this section:

(a) ~~"Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e).~~

(b) ~~"Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e), by the total population of the State.]~~

Sec. 13. NRS 295.055 is hereby amended to read as follows:

295.055 1. The Secretary of State shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. The regulations must ensure that the format includes, without limitation, that:

(1) In addition to signing the petition, a person who signs a petition shall ~~[print]~~ :

(I) *Print* his given name followed by his surname on the petition before his signature ~~[.]~~; and

(II) *Indicate the* ~~[assembly]~~ petition district *in which he resides.*

(2) Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. *The registered voter may consult the list of the registered voters in this State posted on the website maintained by the Secretary of State pursuant to subsection 1 of NRS 293.4687 to determine the ~~assembly~~ petition district in which he resides. The registered voter may rely on the information contained in the list when he indicates the appropriate ~~assembly~~ petition district, unless he believes that the information is inaccurate.*

~~3. The circulator of the petition may carry with him an electronic device capable of accessing the Internet for use by a registered voter to access the list of registered voters in this State posted on the website maintained by the Secretary of State pursuant to NRS 293.4687. A circulator may not write in the assembly district for any registered voter.~~

~~4. 3.~~ Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

~~3. 4.~~ A person who signs a petition may request that the county clerk remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.

Sec. 14. Notwithstanding the definition of "petition district" set forth in sections 2 and 11 of this act, until July 1, 2011, "petition district" as used in chapters 293 and 295 of NRS means congressional districts established for the State of Nevada.

Sec. 15. This act becomes effective upon passage and approval.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Care, Coffin, Rhoads and Cegavske.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

This amendment requires the Legislature to create petition districts from which signatures for a petition for initiatives must be gathered.

Section 14 of the bill defines what a petition district is. For the period through July 1, 2011, those will be the boundaries of the congressional district. Following July 1, 2011, the Legislature must establish the petition districts going forward from that date. It could include the boundaries of a congressional district, but it could be some other boundary.

Section 3.4 requires the Director of the Legislative Counsel Bureau to retain a copy of the maps of the petition districts and to make them available to any interested person for a reasonable fee not to exceed the actual cost of producing the copies. In Section 13, the amendment allows for a voter to consult the website of the Secretary of State to determine within which petition district the voter resides and to rely on that information when they submit or sign an initiative petition.

The language in section 3.2 states that the establishment of the petition districts must be established in a manner that is fair to all residents of this State and that it represent approximately equal populations and ensure that each signature is afforded the same weight. It continues by explaining that the petition districts will be based on that information compiled by the census, which will be conducted soon.

I would like to thank my colleague from the Rural Senatorial District for his leadership on the bill and working through the amendments as proposed.

SENATOR CARE:

I rise in opposition to this amendment. There is another amendment in this package that I requested weeks ago, but owing to the Senate's rules, even though it has a lower number, the committee amendment is to be heard first unless there is a motion.

I will address both at the same time as I address the issue.

This bill stems from a 2008 federal case which I will refer to as the Marijuana Project Case that was decided by one of our federal judges in this State in which the judge overthrew, as being unconstitutional on 14th Amendment grounds, a bill that came out of the Legislature in 2007 which is contrary to some of the testimony before the committee. In 2007 it was not passed unanimously in either House. There were three members in this House who voted against it. This was the bill that said, "10 percent of the number of registered voters in a preceding general election from each county." In 2007, there was an earlier court decision, *ACLU v Lomax*, in which the 9th Circuit ruled unconstitutional, on almost the same grounds, the provision that we had in our constitution requiring the 10 percent, in 75 percent of the counties, or 13 out of 17 counties. This was similar to legislation in Idaho. That is what brought us here, today, with the need for this bill.

The right of referendum is a constitutional right that we have enjoyed since 1904. The right of initiative has been around since 1912. It is a constitutional right. When this bill came out in its original form, it was easy to see what the proponents of the bill were attempting to do, which was to discourage the initiative process in the State. We have had two court decisions. We have a bill that says 10 percent in the 42 Assembly Districts. What if this were New Hampshire where the lower house has 400 members? How would you collect 10 percent in 400 districts? You could not do it. It is not just that the districts have to be one man, one vote; there is a hurdle of burdensomeness. A requirement like this is an extreme burden.

This amendment tones things down a bit, but it still has some problems.

If there are members in this Legislature who want to kill the initiative process, that has been done. We enacted the single-subject rule that took on interpretations by the court I never imagined possible. It has become virtually impossible to have a ballot measure survive because it violates the single-subject rule. Twelve out of twelve were taken off the ballot last election cycle. It is difficult to get a measure on the ballot. Any additional burdens are unnecessary.

The amendment following this amendment is an amendment intended to offer some hope to those who believe we should still allow the people to petition the government through the referendum process or the initiative process. There are three states that use some configuration of Congressional Districts for the initiative and the referendum process. There are nine states, Arizona, California, Colorado, Illinois, Michigan, North Dakota, Oklahoma, Oregon and South Dakota that have no geographic restriction. With a statewide ballot question, you may get those signatures anywhere in the State. I am not asking for that in my amendment. I am asking they be made Congressional Districts. Those are constitutional.

It is ironic that when this bill first came before the Committee there was a letter from a law firm that said a regulatory scheme based upon Congressional Districts is likely to be invalidated by the courts on equal protection grounds. The arguments for such a scheme are thin and easily countered. The same committee produced an amendment that now says congressional districts are okay at least until 2011. A petition district could be 10 districts, 20 districts or 30 districts. The obvious thing to do is to say once and for all let us just choose Congressional Districts, and stay with them. It could have said State Senate Districts. There were discussions about using Regents' Districts. Just strike out counties and put in Congressional Districts. I do not know what the Legislature will do in 2011 if this passes. They will have to revisit the issue. This bill has not even gone to the Assembly yet. Particular interest groups are trying to push the system in their favor because they are afraid of the initiative process. We need to remember it is a constitutional right to petition the government through the referendum process. The people are the fourth branch of government. If you want to get rid of government by petition then the alternative is government by lobbying. We are not here to fear the people. We are here to serve them. I urge the defeat of this amendment.

SENATOR COFFIN:

I rise in support of the committee amendment. A lot of consideration has been given over the last few years as to how to address this problem of providing public access to the initiative process and also to be able to, through elected Legislators to continue to do the job that we do. We are trying to restrain the movement that is undermining legislative process and representative government. The courts have intervened in certain cases. There has been a slowdown in the ability to get initiatives to the ballot, but what we are seeing, here and in other states, is a plague of initiatives created by wealthy individuals to drive their own agenda. They have nothing to do with the popular opinion. They buy the signatures; they buy the media, and then, they persuade the public through aggressive and persuasive media that their interest is best. For two more years, we are trying to find a way to restore representative government. The Legislature through our own actions, as well as the public's votes, have made the Nevada Legislature one of the weakest in the Country vis-à-vis the Executive Branch. We cannot allow that to continue.

SENATOR RHOADS:

I rise in support of Amendment No. 984. We have been working on this since January. The Assembly has worked with us on this bill. It is a bill we can live with. If we have to improve it next Session, then, we will.

SENATOR CEGAVSKE:

Do we have any confirmation from our Legal Counsel as to whether or not this is constitutional? When I was the Chair of Legislative Operations and Elections in the past, we thought we had it solved last Session. It seems each time we come up with something other than the 10 percent, the Supreme Court votes it down. I am concerned that we are just putting in something else when the only thing they are going to support is 10 percent. Was there any discussion about raising the percentage of signatures they have to get?

SENATOR HORSFORD:

Legal Counsel indicated that the provisions of the bill as amended meet the constitutional requirement as indicated in the court ruling. That was addressed in Legislative Operations and Elections as well as in Finance during hearings. There is nothing in writing from Legal Counsel.

The 10-percent requirement still is the requirement of the process. It is 10 percent by district. There was discussion about raising it, but 10 percent is the constitutional requirement. We are trying to adhere to that in the statutory change in Senate Bill No. 212.

SENATOR CARE:

I am not suggesting that the amendment before us is not constitutional. Congressional Districts are constitutional. That is clear. My concern is with the problems that may arise because we are not putting this to rest. We are leaving open this undefined, vague notion of a petition district, which I cannot find in any other state. The problem is not the percentage figure, it is 10 percent of who and where. Congressional Districts are fine.

Raising money and buying media is what candidates do. If the candidates have the opportunity to participate in the process, I think so should the people, and it should be by Congressional Districts.

Motion carried.

Senator Horsford moved that Senate Bill No. 212 be taken from the Second Reading File and placed on the bottom of this agenda after consideration of the Unfinished Business File for Second Reading and amendment.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 303.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 987.

"SUMMARY—Enacts the Interstate Compact on Educational Opportunity for Military Children. (BDR 34-186)"

"AN ACT relating to education; enacting the Interstate Compact on Educational Opportunity for Military Children; revising provisions relating to the enrollment and education of certain children of military families in public schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Interstate Compact on Educational Opportunity for Military Children is an interstate compact which addresses issues relating to the education of certain children of military families in states that are members of the Interstate Compact, including guidelines for the enrollment, placement, graduation and extracurricular activities of those children. The Interstate Compact also requires states that have enacted the Compact to establish a State Council to carry out the provisions of the Interstate Compact and to appoint certain other persons to ensure the proper administration of the Interstate Compact in the state. Section 2 of this bill enacts the Interstate Compact. Sections 3-8 of this bill contain the provisions necessary to carry out the Interstate Compact, including the creation of the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children, the appointment of a liaison to assist military families transferring into this State and the appointment of a Commissioner to oversee the administration of the Interstate Compact. Sections 3, 4 and 5 also provide that the members of the State Council, the liaison and the Commissioner serve without compensation and are not entitled to any per diem or travel expenses. Sections 10 and 11-17 of this bill amend existing provisions relating to the placement, testing, graduation, enrollment and immunization of pupils to ensure that such provisions are consistent with the provisions of the Interstate Compact. (NRS 388.470, 389.015, 389.035, 389.805, 392.033, 392.040, 392.122, 392.435)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 34 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *The Interstate Compact on Educational Opportunity for Military Children, set forth in this section, is hereby enacted into law and entered into with all other jurisdictions substantially as follows:*

ARTICLE I

PURPOSE

It is the purpose of this Compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. *Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from the previous school district or variations in entrance and age requirements.*

B. *Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.*

C. *Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic and social activities.*

D. *Facilitating the on-time graduation of children of military families.*

E. *Providing for the promulgation and enforcement of administrative rules implementing the provisions of this Compact.*

F. *Providing for the uniform collection and sharing of information between and among member states, schools and military families under this Compact.*

G. *Promoting coordination between this Compact and other compacts affecting children of military families.*

H. *Promoting flexibility and cooperation between the educational system, parents and students to achieve educational success for the student.*

ARTICLE II

DEFINITIONS

As used in this chapter, unless the context otherwise requires, the words and terms defined in this Article have the meanings ascribed to them in this Article:

A. *"Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.*

B. *"Child of a military family" means a school-aged child enrolled in kindergarten or grades 1 through 12, inclusive, in the household of a person on active duty.*

C. *"Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this Compact.*

D. *"Deployment" means the period 1 month before the departure of a person on active duty from his home station on military orders through 6 months after return to his home station.*

E. *"Educational records" means the official records, files and data directly relating to a student which are maintained by a school or local education agency, including, without limitation, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.*

F. *"Extracurricular activities"* means a voluntary activity sponsored by a school or local education agency or an organization sanctioned by a local education agency, including, without limitation, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.

G. *"Interstate Commission"* means the Interstate Commission on Educational Opportunity for Military Children created by Article IX of this Compact.

H. *"Local education agency"* means an administrative agency legally constituted by the state to provide control of and direction for public educational institutions for kindergarten and grades 1 through 12, inclusive.

I. *"Member state"* means a state that has enacted this Compact.

J. *"Military installation"* means a base, camp, post, station, yard, center or homeport facility for any ship or other activity under the jurisdiction of the United States Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands or any other territory of the United States. The term does not include a facility used primarily for civil works or river, harbor or flood control projects.

K. *"Nonmember state"* means a state that has not enacted this Compact.

L. *"Receiving state"* means the state to which a child of a military family is sent, brought or caused to be sent or brought.

M. *"Rule"* means a written statement by the Interstate Commission promulgated pursuant to Article XII of this Compact that is of general applicability and implements, interprets or prescribes a policy or provision of this Compact or an organizational, procedural or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state, including the amendment, repeal or suspension of an existing rule.

N. *"Sending state"* means the state from which a child of a military family is sent, brought or caused to be sent or brought.

O. *"State"* means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

P. *"Student"* means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten or grades 1 through 12, inclusive.

Q. *"Transition"* means the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. *"Uniformed service"* means the Army, Navy, Air Force, Marine Corps, Coast Guard or Commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration.

S. "Veteran" means a person who served in the uniformed service and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III

APPLICABILITY

A. Except as otherwise provided in sections B and C, this Compact shall apply to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

B. The provisions of this Compact shall only apply to local education agencies.

C. The provisions of this Compact shall not apply to the children of:

1. Inactive members of the National Guard or military reserves;

2. Retired members of the uniformed services, except as otherwise provided in section A;

3. Veterans of the uniformed services, except as otherwise provided in section A; and

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" educational records – If official educational records cannot be released to the parent or legal guardian for the purpose of transfer, the custodian of the educational records in the sending state shall prepare and furnish to the parent or legal guardian a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial educational records pending validation by the official records.

B. Official educational records – At the time that a school initially enrolls and determines the placement of a student, the school in the receiving state shall request the official educational records of the student from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official educational records to the school in the receiving state within 10 days or within such time as is

reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Member states shall give 30 days after the date of enrollment, or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days, or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and grade 1 entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on his validated level from the local education agency in the sending state.

ARTICLE V

PLACEMENT AND ATTENDANCE

A. Course placement – When a student transfers before or during the school year, the school in the receiving state shall initially honor placement of the student in educational courses based on the student's enrollment in the school in the sending state or educational assessments conducted at the school in the sending state, if the courses are offered in the receiving state and space is available. Course placement includes, without limitation, honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. Nothing in this section precludes the school in the receiving state from performing subsequent evaluations to ensure the appropriate placement and continued enrollment of the student in the appropriate courses.

B. Educational program placement – The school in the receiving state shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation and placement in like programs in the sending state. Such programs include, without limitation, gifted and talented programs and English as a second language. Nothing in this section precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – In compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., the receiving state shall initially provide comparable services to a student with a disability

based on his current individualized education program. In compliance with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. Nothing in this section precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – The administrative officials of the local education agency shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. Absence relating to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the superintendent of the local education agency to visit with his parent or legal guardian relating to such leave or deployment.

ARTICLE VI

ELIGIBILITY

A. Eligibility for enrollment

1. A special power of attorney, for purposes of the guardianship of a child of a military family, which is executed pursuant to the applicable law of the jurisdiction in which the special power of attorney is executed is sufficient for the purposes of enrolling a student in school and for all other actions requiring participation and consent of a parent or legal guardian of the student.

2. A local education agency shall not charge local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he was enrolled while residing with the custodial parent.

B. Eligibility for participation in extracurricular activities – State and local education agencies shall facilitate the opportunity for transitioning children of military families to be included in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII

GRADUATION

To facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – The administrative officials of the local education agency shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial of a waiver. If a waiver is not granted to a student who qualifies to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required course work so that the student may graduate on time.

B. Exit exams – States shall accept:

1. Exit or end-of-course exams required for graduation from the sending state;

2. National norm-referenced achievement tests; or

3. Alternative testing,

↪ in lieu of tests required for graduation in the receiving state. If the alternatives set forth in this section cannot be accommodated by the receiving state for a student transferring during the student's senior year, then the provisions of section C shall apply.

C. Transfers during senior year – If a military student transferring immediately before beginning or during his senior year is ineligible to graduate from the local education agency of the receiving state after all alternatives have been considered pursuant to this Article, the local education agencies of the sending state and the receiving state shall ensure the receipt of a diploma from the local education agency of the sending state if the student meets the graduation requirements of the local education agency of the sending state. If the sending state or the receiving state is not a member of this Compact, the member state shall use its best efforts to facilitate the on-time graduation of the student in accordance with this Article.

ARTICLE VIII

STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this Compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least the state superintendent of public education, a superintendent of a school district with a high concentration of children of military families, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the member state deems appropriate. A member state that does not have a school district deemed to contain a high concentration of children of military families may appoint a superintendent from another

school district to represent the local education agencies of the member state on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this Compact.

C. A compact commissioner responsible for the administration and management of the state's participation in the Compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL

OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The Interstate Commission may form public policy and is a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this Compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, without limitation, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The Chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an Executive Committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the Executive Committee shall serve a term of 1 year. Members of the Executive Committee shall be entitled to one vote each. The Executive Committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The Executive Committee shall oversee the day-to-day activities of the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the Compact. The Interstate Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly

describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Collect standardized data concerning the educational transition of the children of military families under this Compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. The methods of data collection, exchange and reporting must, insofar as is reasonably possible, conform to current technology and coordinate information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Create a process that permits military officials, education officials and parents to inform the Interstate Commission of alleged violations of the Compact or its rules or when issues subject to the jurisdiction of the Compact or its rules are not addressed by the member state or a local education agency within a member state. Nothing in this section creates a private right of action against the Interstate Commission or any member state.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the power to:

- A. Provide for dispute resolution among the member states.*
- B. Promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this Compact. The rules must have the force and effect of statutory law and be binding in the member states to the extent and in the manner provided in this Compact.*
- C. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules and actions.*
- D. Enforce compliance with the provisions of the Compact, the rules promulgated by the Interstate Commission and the bylaws, using all necessary and proper means, including, without limitation, the use of the judicial process.*
- E. Establish and maintain offices which shall be located within one or more of the member states.*
- F. Purchase and maintain insurance and bonds.*
- G. Borrow, accept, hire or contract for services of personnel.*
- H. Establish and appoint committees, including, without limitation, an Executive Committee as required by section E of Article IX of this Compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.*
- I. Elect or appoint officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel*

policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel.

J. Accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, use and dispose of them.

K. Lease, purchase or accept contributions or donations of, or otherwise own, hold, improve or use any property, including real, personal or mixed property.

L. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, including real, personal or mixed property.

M. Establish a budget and make expenditures.

N. Adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. Report annually to the legislatures, governors, judiciary and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports must also include any recommendations that may have been adopted by the Interstate Commission.

P. Coordinate education, training and public awareness regarding the Compact, its implementation and operation for officials and parents and legal guardians.

Q. Establish uniform standards for the reporting, collecting and exchanging of data.

R. Maintain corporate books and records in accordance with the bylaws.

S. Perform such functions as may be necessary or appropriate to achieve the purposes of this Compact.

T. Provide for the uniform collection and sharing of information between and among member states, schools and military families under this Compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, without limitation:

- 1. Establishing the fiscal year of the Interstate Commission;*
- 2. Establishing an Executive Committee and such other committees as may be necessary;*
- 3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;*
- 4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;*
- 5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;*

6. *Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that exist upon the termination of the Compact after the payment and reserving of all of its debts and obligations; and*

7. *Providing "start up" rules for initial administration of the Compact.*

B. *The Interstate Commission shall, by a majority of the members, elect annually from among its members a Chairperson, a Vice Chairperson and a Treasurer, each of whom has the authority and duties as specified in the bylaws. The Chairperson or, in the Chairperson's absence or disability, the Vice Chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission. However, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.*

C. *Executive Committee, Officers and Personnel*

1. *The Executive Committee shall have such authority and duties as set forth in the bylaws, including, without limitation:*

a. *Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;*

b. *Overseeing an organizational structure within, and appropriate procedures for, the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and*

c. *Planning, implementing and coordinating communications and activities with other state, federal and local government organizations to advance the goals of the Interstate Commission.*

2. *The Executive Committee may, subject to the approval of the Interstate Commission, appoint or retain an Executive Director upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The Executive Director shall serve as Secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The Executive Director shall hire and supervise such other persons as may be authorized by the Interstate Commission.*

D. *The Interstate Commission's Executive Director and employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error or omission that occurred, or that the Executive Director or employee had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties or responsibilities. The Executive Director or an employee shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct on the part of the person.*

1. *The liability of the Interstate Commission's Executive Director, an employee or a representative acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees and agents. The Interstate Commission is considered to be an instrumentality of the member states for the purposes of any such action. Nothing in this subsection protects such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct on the part of the person.*

2. *The Interstate Commission shall defend the Executive Director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct of the person.*

3. *To the extent not covered by the state involved, member state or the Interstate Commission, a representative or employee of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such person arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the person.*

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. *Rulemaking Authority – Except as otherwise provided in this section, the Interstate Commission shall promulgate reasonable rules to effectively and efficiently achieve the purposes of this Compact. If the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, such an action by the Interstate Commission shall be deemed invalid and have no force or effect.*

B. *Rulemaking Procedure – Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981 Act, Uniform Laws Annotated,*

Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule. The filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder must have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this Compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact, the bylaws or the rules, the Interstate Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state may cure its default.

b. Provide remedial training and specific technical assistance regarding the default.

2. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination. A cure of

the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

3. Suspension or termination of membership in the Compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

4. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination; including obligations the performance of which extends beyond the effective date of suspension or termination.

5. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

6. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies set forth herein must not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. *The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.*

B. *The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.*

C. *The Interstate Commission shall not incur obligations of any kind before securing the funds adequate to meet the same and shall not pledge the credit of any of the member states, except by and with the authority of the member state.*

D. *The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Interstate Commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the Interstate Commission.*

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. *Any state is eligible to become a member state.*

B. *Upon legislative enactment of the Compact into law by not less than 10 states, the Compact becomes effective and binding as to those states that have enacted the Compact. The Compact shall become effective and binding as to any other member state upon enactment of the Compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the Compact by all states.*

C. *The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by each member state.*

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. *Withdrawal*

1. *Once effective, the Compact shall continue in force and remain binding upon each member state.*

2. *A member state may withdraw from the Compact by repealing the statute which enacted the Compact. Withdrawal from the Compact must not be effective less than 1 year after the effective date of repeal of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each member state.*

3. *The withdrawing state shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days after its receipt thereof.*

4. *The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extend beyond the effective date of withdrawal.*

5. *A state that has withdrawn from the Compact may be reinstated upon reenactment of the Compact by that state or a later date, as determined by the Interstate Commission.*

B. Dissolution of Compact

1. *The effectiveness of this Compact dissolves upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one member state.*

2. *Upon dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission must be concluded and surplus funds must be distributed in accordance with the bylaws.*

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. *The provisions of this Compact are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact remain enforceable.*

B. *The provisions of this Compact must be liberally construed to effectuate its purposes.*

C. *Nothing in this Compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.*

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. *Nothing herein prevents the enforcement of any other statute of a member state that is not inconsistent with this Compact.*

2. *The statutes of a member state which conflict with this Compact are superseded to the extent of the conflict.*

B. Binding Effect of the Compact

1. *All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.*

2. *All agreements between the Interstate Commission and the member states are binding in accordance with the terms of such agreements.*

3. *In the event a provision of this Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision is not*

effective to the extent of the conflict with the Constitution in that member state.

Sec. 3. 1. In furtherance of the provisions contained in the Interstate Compact on Educational Opportunity for Military Children, there is hereby created a State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children, consisting of the following members:

(a) One representative of the Nevada National Guard, appointed by the Governor.

(b) One representative of each military installation in this State, appointed by the commanding officer of that military installation.

(c) The Superintendent of Public Instruction.

(d) The superintendent of each school district in which a military installation is located.

(e) One Legislator or other person appointed by the Legislative Commission to represent the interests of the Legislature.

(f) One person appointed by the Governor to represent the interests of the Governor.

2. A member of the State Council serves a term of 2 years and until his successor is appointed. A member may be reappointed.

3. A member of the State Council may be removed from office by the appointing authority at any time.

4. A vacancy on the State Council must be filled in the same manner as the original appointment.

5. The members of the State Council serve without compensation and are not entitled to any per diem or travel expenses.

Sec. 4. 1. The State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children created pursuant to section 3 of this act shall appoint a liaison to assist military families and the State in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children. The liaison shall carry out the duties set forth in the Interstate Compact as may be required by the State Council.

2. The liaison appointed pursuant to this section may be a member of the State Council appointed pursuant to section 3 of this act or any other person deemed appropriate by the State Council.

3. If the liaison appointed pursuant to this section is not a member of the State Council appointed pursuant to section 3 of this act, he shall serve as an ex officio nonvoting member of the State Council.

4. The liaison appointed pursuant to this section serves without compensation and is not entitled to any per diem or travel expenses.

Sec. 5. 1. The Governor shall appoint a Commissioner to administer and manage the participation of the State in the Interstate Compact on Educational Opportunity for Military Children.

2. *The Commissioner shall serve at the pleasure of the Governor. The Commissioner shall:*

(a) Carry out the duties set forth in the Interstate Compact as may be required by the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children; and

(b) Cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the Compact, any supplementary agreement thereto or agreements entered into by this State under the Interstate Compact.

3. *The Commissioner appointed pursuant to this section may be a member of the State Council or any other person deemed appropriate by the Governor.*

4. *If the Commissioner appointed pursuant to this section is not a member of the State Council appointed pursuant to section 3 of this act, the Commissioner shall serve as an ex officio nonvoting member of the State Council.*

5. *If the Commissioner appointed pursuant to this section is not able to attend a meeting of the Interstate Commission, the Governor may appoint another person to attend the meeting on behalf of the State.*

6. The Commissioner appointed pursuant to this section serves without compensation and is not entitled to any per diem or travel expenses.

Sec. 6. (Deleted by amendment.)

Sec. 7. 1. ~~Money to carry out the provisions of this chapter must be provided by direct legislative appropriation from the State General Fund and must be~~ accounted for separately in the Interstate Compact on Educational Opportunity for Military Children Account which is hereby created.

2. *The money in the Account may be used by the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children created pursuant to section 3 of this act to:*

(a) Pay any assessments, obligations or fees to the Interstate Commission.

(b) To meet necessary administrative expenses of the State Council.

3. The Superintendent of Public Instruction shall administer the Account.

4. The Superintendent of Public Instruction may accept any gifts, grants or donations for deposit in the Account.

5. Nothing in the provisions of sections 2 to 8, inclusive, of this act, require the Department or the board of trustees of a school district to allocate money in addition to money available in the Account for the payment of expenses incurred pursuant to those provisions.

Sec. 8. 1. All officers of the State are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the Interstate Compact on Educational Opportunity for Military Children and to accomplish the purposes thereof.

2. *All officers, bureaus, departments and persons of and in the State Government or administration of this State are hereby authorized and directed at convenient times and upon request of the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children to furnish the State Council with information and data possessed by them and to aid the State Council by any means lying within their legal rights.*

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 388.470 is hereby amended to read as follows:

388.470 1. Before any child is placed in a special program for pupils with disabilities or gifted and talented pupils:

(a) A consultation must be held with his parents or guardian.

(b) An examination must be conducted for the purpose of finding the extent to which the child deviates from normal growth and development patterns. The examination must be conducted in accordance with standards prescribed by the State Board.

2. A psychiatrist may be consulted in any specific case when the board of trustees of a school district deems it necessary.

3. The board of trustees of a school district or the governing body of a charter school shall not place a child or authorize the placement of a child in a program for pupils with disabilities solely because the child is a disciplinary problem in school.

4. *Pursuant to the provisions of section 2 of this act, a child with a disability who transfers to a school in this State from a school inside or outside this State because of the military transfer of the parent or legal guardian of the child must initially be provided services that are comparable to the services the child received at his previous school under his current individualized education program until the placement of the child is determined pursuant to this section.*

Sec. 10.5. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The superintendent of a school district or his designee shall, in accordance with section 2 of this act, make reasonable efforts to accommodate a pupil who transfers to a public school in the school district from a school inside or outside this State because of the military transfer of the parent or legal guardian of the pupil.*

2. *If the superintendent of a school district or his designee is not able to grant a standard high school diploma to a pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil, the superintendent or his designee shall work cooperatively with the local education agency in the state in which the pupil was previously enrolled to determine if the pupil is eligible to receive a diploma from that local education agency and, if the pupil is eligible, to facilitate receiving a high school diploma from that local education agency.*

Sec. 11. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

- (a) Administered before the completion of grades 4, 7, 10 and 11.
- (b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

- (1) The plan adopted by the Department; and
- (2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

- (a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

↪ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. ~~HH~~ *Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, he must not be graduated unless he:*

(a) Is able, through remedial study, to pass the proficiency examination; or

(b) Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,

↪ but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of 18 years.

6. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 5 if, in accordance with the provisions of section 2 of this act, the school district in which the pupil is enrolled:*

(a) *Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;*

(b) *Accepts the results of a national norm-referenced achievement examination taken by the pupil; or*

(c) *Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.*

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to

NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 12. NRS 389.035 is hereby amended to read as follows:

389.035 1. Except as otherwise provided in ~~[subsection 2.] subsections 2 and 3~~, no pupil in any public high school, the Caliente Youth Center, the Nevada Youth Training Center or any other state facility for the detention of children that is operated pursuant to title 5 of NRS may receive a certificate or diploma of graduation without having passed a course in American government and American history as required by NRS 389.020 and 389.030.

2. A pupil who is enrolled in a university school for profoundly gifted pupils who meets the requirements of NRS 392A.100 is exempt from the provisions of ~~[this section.] subsection 1~~.

3. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 1 if, in accordance with the provisions of section 2 of this act, the pupil:*

(a) Successfully completed a comparable course in the school in which he was previously enrolled; or

(b) Successfully completes an alternative means prescribed by the school district for acquiring the required course work.

Sec. 13. NRS 389.805 is hereby amended to read as follows:

389.805 1. ~~{A}~~ *Except as otherwise provided in subsection 3, a pupil must receive a standard high school diploma if he:*

(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or

(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than three times before beginning grade 12 and the pupil:

(1) Passes the subject areas of mathematics and reading on the proficiency examination;

(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection ~~{3}~~ 4; and

(4) Otherwise satisfies the requirements for graduation from high school.

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of paragraphs (a) and (b) of subsection 1 if, in accordance with the provisions of section 2 of this act, the school district in which the pupil is enrolled:*

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

4. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

↪ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 392.040 is hereby amended to read as follows:

392.040 1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and 18 years shall send the child to a public school during all the time the public school is in session in the school district in which the child resides unless the child has graduated from high school.

2. A child who is 5 years of age on or before September 30 of a school year may be admitted to kindergarten at the beginning of that school year, and his enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year, the child must not be admitted to kindergarten.

3. Except as otherwise provided in subsection 4, a child who is 6 years of age on or before September 30 of a school year must:

(a) If he has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or

(b) If he has completed kindergarten, be admitted to the first grade at the beginning of that school year,

↪ and his enrollment must be counted for purposes of apportionment. If a child is not 6 years of age on or before September 30 of a school year, the child must not be admitted to the first grade until the beginning of the school year following his sixth birthday.

4. The parents, custodial parent, guardian or other person within the State of Nevada having control or charge of a child who is 6 years of age on or before September 30 of a school year may elect for the child not to attend kindergarten or the first grade during that year. The parents, custodial parent, guardian or other person who makes such an election shall file with the board of trustees of the appropriate school district a waiver in a form prescribed by the board.

5. Whenever a child who is 6 years of age is enrolled in a public school, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of the child shall send him to the public school during all the time the school is in session. If the board of trustees of a school district has adopted a policy prescribing a minimum number of days of attendance for pupils enrolled in kindergarten or first grade pursuant to NRS 392.122, the school district shall provide to each parent and legal guardian of a pupil who elects to enroll his child in kindergarten or first grade a written document containing a copy of that policy and a copy of the policy of the school district concerning the withdrawal of pupils from kindergarten or first grade. Before the child's first day of attendance at a school, the parent or legal guardian shall sign a statement on a form provided by the school

district acknowledging that he has read and understands the policy concerning attendance and the policy concerning withdrawal of pupils from kindergarten or first grade. The parent or legal guardian shall comply with the applicable requirements for attendance. This requirement for attendance does not apply to any child under the age of 7 years who has not yet been enrolled or has been formally withdrawn from enrollment in public school.

6. A child who is 7 years of age on or before September 30 of a school year must:

(a) If he has completed kindergarten and the first grade, be admitted to the second grade.

(b) If he has completed kindergarten, be admitted to the first grade.

(c) If the parents, custodial parent, guardian or other person in the State of Nevada having control or charge of the child waived the child's attendance from kindergarten pursuant to subsection 4, undergo an assessment by the district pursuant to subsection 7 to determine whether the child is prepared developmentally to be admitted to the first grade. If the district determines that the child is prepared developmentally, he must be admitted to the first grade. If the district determines that the child is not so prepared, he must be admitted to kindergarten.

➡ The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.

7. Each school district shall prepare and administer before the beginning of each school year a developmental screening test to a child:

(a) Who is 7 years of age on or before September 30 of the next school year; and

(b) Whose parents waived his attendance from kindergarten pursuant to subsection 4,

➡ to determine whether the child is prepared developmentally to be admitted to the first grade. The results of the test must be made available to the parents, custodial parent, guardian or other person within the State of Nevada having control or charge of the child.

8. ~~{A}~~ *Except as otherwise provided in subsection 9, a child who becomes a resident of this State after completing kindergarten or beginning first grade in another state in accordance with the laws of that state may be admitted to the grade he was attending or would be attending had he remained a resident of the other state regardless of his age, unless the board of trustees of the school district determines that the requirements of this section are being deliberately circumvented.*

9. *Pursuant to the provisions of section 2 of this act, a child who transfers to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the child must be admitted to:*

(a) *The grade, other than kindergarten, he was attending or would be attending had he remained a resident of the other state, regardless of his age.*

(b) *Kindergarten, if the child was enrolled in kindergarten in another state in accordance with the laws of that state, regardless of his age.*

10. As used in this section, "kindergarten" includes:

(a) A kindergarten established by the board of trustees of a school district pursuant to NRS 388.060;

(b) A kindergarten established by the governing body of a charter school; and

(c) An authorized program of instruction for kindergarten offered in a child's home pursuant to NRS 388.060.

Sec. 16. NRS 392.122 is hereby amended to read as follows:

392.122 1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.

2. For the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. *The teacher or principal of the school may approve the absence of a pupil for deployment activities of the parent or legal guardian of the pupil, as defined in section 2 of this act.* If the board of trustees of a school district has adopted a policy pursuant to subsection 5, the 10-day limitation on absences does not apply to absences that are excused pursuant to that policy.

3. Except as otherwise provided in subsection 5, before a pupil is denied credit or promotion to the next higher grade for failure to comply with the attendance requirements prescribed pursuant to subsection 1, the principal of the school in which the pupil is enrolled or his designee shall provide written notice of the intended denial to the parent or legal guardian of the pupil. The notice must include a statement indicating that the pupil and his parent or legal guardian may request a review of the absences of the pupil and a statement of the procedure for requesting such a review. Upon the request for a review by the pupil and his parent or legal guardian, the principal or his designee shall review the reason for each absence of the pupil upon which the intended denial of credit or promotion is based. After the review, the principal or his designee shall credit towards the required days of attendance each day of absence for which:

(a) There is evidence or a written affirmation by the parent or legal guardian of the pupil that the pupil was physically or mentally unable to attend school on the day of the absence; and

(b) The pupil has completed course-work requirements.

4. A pupil and his parent or legal guardian may appeal a decision of a principal or his designee pursuant to subsection 3 to the board of trustees of the school district in which the pupil is enrolled.

5. The board of trustees of a school district may adopt a policy to exempt pupils who are physically or mentally unable to attend school from the limitations on absences set forth in subsection 1. If a board of trustees adopts a policy pursuant to this subsection:

(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.

(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course-work requirements.

(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.

6. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 17. NRS 392.435 is hereby amended to read as follows:

392.435 1. Unless excused because of religious belief or medical condition ~~and~~ *and except as otherwise provided in subsection 5*, a child may not be enrolled in a public school within this State unless his parents or guardian submit to the board of trustees of the school district in which the child resides or the governing body of the charter school in which the child has been accepted for enrollment a certificate stating that the child has been immunized and has received proper boosters for that immunization or is complying with the schedules established by regulation pursuant to NRS 439.550 for the following diseases:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis if the child is under 6 years of age;
- (d) Poliomyelitis;
- (e) Rubella;
- (f) Rubeola; and
- (g) Such other diseases as the local board of health or the State Board of Health may determine.

2. The certificate must show that the required vaccines and boosters were given and must bear the signature of a licensed physician or his designee or a registered nurse or his designee, attesting that the certificate accurately reflects the child's record of immunization.

3. If the requirements of subsection 1 can be met with one visit to a physician or clinic, procedures for conditional enrollment do not apply.

4. A child may enter school conditionally if the parent or guardian submits a certificate from a physician or local health officer that the child is receiving the required immunizations. If a certificate from the physician or local health officer showing that the child has been fully immunized is not submitted to the appropriate school officers within 90 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was conditionally admitted, the child must be excluded from school and may not be readmitted until the requirements for immunization have been met. A child who is excluded from school pursuant to this section is a neglected child for the purposes of NRS 432.0999 to 432.130, inclusive, and chapter 432B of NRS.

5. *A child who transfers to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the child must be enrolled in school in this State regardless of whether the child has been immunized. Unless a different time frame is prescribed pursuant to section 2 of this act, the parent or legal guardian shall submit a certificate from a physician or local health officer showing that the child:*

(a) If the requirements of subsection 1 can be met with one visit to a physician or clinic, has been fully immunized within 30 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was enrolled; or

(b) If the requirements of subsection 1 cannot be met with one visit to a physician or clinic, is receiving the required immunizations within 30 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was enrolled. A certificate from the physician or local health officer showing that the child has been fully immunized must be submitted to the appropriate school officers within 120 school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the child was enrolled.

➡ *If the parent or legal guardian fails to submit the documentation required pursuant to this subsection, the child must be excluded from school and may not be readmitted until the requirements for immunization have been met. A child who is excluded from school pursuant to this section is a neglected child for the purposes of NRS 432.0999 to 432.130, inclusive, and chapter 432B of NRS.*

6. Before December 31 of each year, each school district and the governing body of each charter school shall report to the Health Division of the Department of Health and Human Services, on a form furnished by the Division, the exact number of pupils who have completed the immunizations required by this section.

~~{6-}~~ 7. The certificate of immunization must be included in the pupil's academic or cumulative record and transferred as part of that record upon request.

Sec. 18. The Superintendent of Public Instruction shall, to the extent authorized by law, apply for any gifts, grants and donations available for deposit in the Interstate Compact on Educational Opportunity for Military Children Account, created pursuant to section 7 of this act, to carry out the provisions of the Interstate Compact on Educational Opportunity for Military Children.

Sec. 19. During the period commencing on July 1, 2009, through December 31, 2010, the superintendent of each school district shall work cooperatively with the United States Department of Defense and local education agencies in other states to accommodate, to the extent authorized by state law, a pupil who transfers to a public school in this State because of the military transfer of the parent or legal guardian of the pupil.

~~{Sec. 18.}~~ Sec. 20. 1. *This section and sections 1, 7, 18 and 19 of this act ~~becomes~~ become effective on July 1, 2009.*

2. Sections 2 to 6, inclusive, and 8 to 17, inclusive, of this act become effective on January 1, 2011.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Senator Nolan requested that his remarks be entered in the Journal.

The bill had been addressed and sent to Finance because of the fiscal note. The amendment removes the fiscal note.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Carlton moved that the Senate do not recede from its action on Assembly Bill No. 523, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Hardy and Amodei as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 523.

RECEDE FROM SENATE AMENDMENTS

Senator Mathews moved that the Senate do not recede from its action on Assembly Bill No. 561, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Woodhouse, Rhoads and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Assembly Bill No. 561.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 183, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 751 of the Assembly be concurred in.

TERRY CARE

DAVID R. PARKS

MIKE MCGINNESS

Senate Conference Committee

TICK SEGERBLOM

RUBEN J. KIHUEN

JOHN HAMBRICK

Assembly Conference Committee

Senator Care moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 183.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

We had requested the Conference Committee because of the deletion of one section from the bill. We found that the deletion had been included in another bill that the Governor had already signed. We concurred in the Assembly's action.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 60, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 787 of the Senate be concurred in.

JOHN J. LEE

RANDOLPH J. TOWNSEND

MIKE MCGINNESS

Senate Conference Committee

HARVEY J. MUNFORD

ELLEN B. SPIEGEL

APRIL MASTROLUCA

Assembly Conference Committee

Senator Lee moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 60.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 259, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 578 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes relating to criminal offenders. (BDR 16-631)"

"AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; authorizing a court to provide for the forfeiture of credits for good behavior of a probationer under certain circumstances; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. Section 1 of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. Section 4 of this bill authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

Existing law provides that an offender who is sentenced to serve a period of probation for a felony and who demonstrates certain good behavior must be allowed certain deductions from his period of probation. Section 5 of this bill amends existing law to provide generally that a person who is sentenced to a period of probation for a felony or a gross misdemeanor *and who is in compliance with the terms and conditions of his probation* must be allowed a deduction from his period of probation of: (1) ten days for each month he serves and is current on any fee to defray the cost of his supervision and on any fines, fees and restitution ordered by the court; and (2) an additional 10 days for each month he serves and is actively involved in employment or enrolled in certain programs. (NRS 176A.500)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. Section 6 of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure perimeter. Further, section 6 of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

Section 3 of this bill amends chapter 213 of NRS, which governs parolees in a manner similar to section 6 of this bill. Section 3 provides that a parolee who is returned to confinement in a facility or institution of the Department of Corrections is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS, with the exception of certain credits which are earned by an offender who is released on parole. (NRS 213.152)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➤ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the

victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

- (a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;
 - (b) Has not performed the duties assigned to him in a faithful and orderly manner;
 - (c) Has been convicted of:
 - (1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;
 - (2) A sexual offense that is punishable as a felony; or
 - (3) ~~1A~~ Except as otherwise provided in subsection 4, a category A or B felony;
 - (d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or
 - (e) Has escaped or attempted to escape from any jail or correctional institution for adults,
- is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. *The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:*

- (a) *The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and*
- (b) *The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.*

5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

~~5.7~~ 6. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

- (a) A continuation of his imprisonment and not a release on parole; and
 - (b) For the purposes of NRS 209.341, an assignment to a facility of the Department,
- except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~6.7~~ 7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection ~~46.7~~ 7, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of

suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require:

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) Require the parolee to be confined to a facility *or institution* of the Department of Corrections ~~approved by the Board~~ for a period not to exceed 6 months. *The Department may select the facility or institution in which to place the parolee.*

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➡ must not be used.

4. *A parolee who is confined to a facility or institution of the Department of Corrections pursuant to paragraph (b) of subsection 2:*

(a) *May earn credits to reduce his sentence pursuant to chapter 209 of NRS; and*

(b) *Shall not be deemed to be released on parole for purposes of NRS 209.447 or 209.4475 during the period of that confinement.*

5. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

~~5.1~~ 6. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

~~6.1~~ 7. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

~~7.1~~ 8. As used in this section ~~["facility"]~~:

(a) *"Facility"* has the meaning ascribed to it in NRS 209.065.

(b) *"Institution"* has the meaning ascribed to it in NRS 209.071.

Sec. 4. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a court before which a probationer is brought pursuant to NRS 176A.630 determines that the probationer has violated a condition of his probation, the probationer forfeits all or part of the credits for good behavior earned by him pursuant to NRS 176A.500 during his probation, in the discretion of the court.*

2. *A forfeiture may be made only by the court after proof of the violation and notice to the probationer.*

3. *The court may restore credits forfeited for such reasons as it considers proper.*

4. *If the court provides for the forfeiture or restoration of credits for good behavior of a probationer pursuant to this section, the clerk of the court shall notify the Chief Parole and Probation Officer of the forfeiture or restoration of credits.*

Sec. 5. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. ~~[An offender]~~ A person who is sentenced to serve a period of probation for a felony ~~[who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him,]~~ or a gross misdemeanor must be allowed for the period of his probation a deduction ~~[of 20]~~ as set forth in subsection 6 if the offender is ~~[+] in compliance with the terms and conditions of his probation as determined by the Division and is:~~

(a) Current with any fee to defray the cost of his supervision charged pursuant to NRS 213.1076 and with any fines, fees and restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430; and

(b) Actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

6. ~~[Except as otherwise provided in subsection 7, a]~~ A person described in subsection 5 must be allowed for the period of his probation a deduction of:

(a) Ten days from that period for each month he serves ~~[+]~~ and is current on any fees to defray the cost of his supervision owed and on any fines, fees and restitution ordered by the court; and

(b) ~~[A+] Except as otherwise provided in subsection 7, an additional 10 days from that period for each month he serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.~~

7. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who ~~[+]~~

~~(a) [+] is a participant in a specialty court program must be allowed a deduction from the period of probation for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division only if the person successfully completes the specialty court program. [+-]~~

~~(b) Owes any restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430, must be allowed a deduction from the period of probation for making payments of restitution only if the person pays the full amount of restitution imposed.~~

~~[+] Such a deduction must not exceed the length of time remaining on the person's period of probation.~~

8. As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or

drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 6. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division and require:

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) ~~Direct~~ *If the person was placed on probation for a felony conviction, direct* that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility *or institution* of the Department ~~[approved by the Division and the court]~~ for a period not to exceed 6 months. *The Department may select the facility or institution in which to place the person.*

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section ~~["facility"]~~:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 7. 1. The amendatory provisions of this act apply to offenses committed before, on or after July 1, 2009.

2. For the purpose of calculating credits earned by a person pursuant to NRS 213.152, the amendatory provisions of section 3 of this act must be applied to credits earned by the person before, on or after July 1, 2009.

3. For the purpose of calculating credits earned by a person pursuant to NRS 176A.500, the amendatory provisions of section 5 of this act must be applied only to credits earned by the person on or after July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

DAVID R. PARKS
VALERIE WIENER
MAURICE E. WASHINGTON
Senate Conference Committee

WILLIAM C. HORNE
MARILYN DONDERO LOOP
JOHN C. CARPENTER
Assembly Conference Committee

Senator Parks moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 259.

Remarks by Senators Parks and Carlton.

Senator Parks requested that the following remarks be entered in the Journal.

SENATOR PARKS:

We took out language that had possible unintended consequences that would allow judges to see things differently. It would have created a situation that we currently have that is somewhat confusing. This language puts this into the hands of the parole and probation people.

SENATOR CARLTON:

When we say, "in compliance with the terms and conditions," that does mean the fees and restitution. Those are still included in this measure.

SENATOR PARKS:

Yes, that is correct. This is a follow up bill from last Session. We have found that there was confusion relative to completing the probation period and the prisoner being released without having completed their payment of restitution.

SENATOR CARLTON:

That is the concern that I have. We are telling people that they have to pay for their good time, instead of giving it to them. This is like going back to a debtors' prison. If they do not pay it, they do not get it. That is the concern that I have.

Motion carried by a constitutional majority.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:41 p.m.

SENATE IN SESSION

At 1:08 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 212.

Bill read second time.

The following amendment was proposed by Senator Horsford:

Amendment No. 996.

"SUMMARY—Revises provisions governing initiative petitions.
(BDR 24-649)"

"AN ACT relating to initiative petitions; providing a procedure for a petition proposing a statute, an amendment to a statute or an amendment to the Constitution to be placed on a ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that an initiative petition proposing a statute, an amendment to a statute or an amendment to the Constitution be signed by a number of registered voters that is equal to at least 10 percent of the voters who voted at the last preceding general election. (Nev. Const. Art. 19, § 2) Existing law also requires an initiative petition be signed by a number of registered voters from each county in the State that is at least equal to 10 percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county. (NRS 295.012) The United States District Court for the District of Nevada

declared that the current existing law violates the Equal Protection Clause of the United States Constitution because it results in the signatures of voters from counties with lower population carrying more weight than the signatures of voters from counties with higher population. (*Marijuana Policy Project v. Miller*, 578 F.Supp. 2d 1290 (D. Nev. 2008)) This bill repeals and replaces the current existing law.

Section 3.2 of this bill requires the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. Section 14 of this bill defines "petition district" to mean congressional district until July 1, 2011, at which time the Legislature must have established petition districts for the period after that date. Section 3.4 of this bill requires the Director of the Legislative Counsel Bureau to retain a copy of maps of the petitions district and make them available to any interested person for a reasonable fee not to exceed the actual cost of producing the copy. Section 12 of this bill requires a petition for initiative ~~for referendum~~ to be signed by a number of registered voters in each ~~assembly~~ petition district in the State that equals at least 10 percent of the voters who voted in that ~~assembly~~ petition district in the last preceding general election. ~~[Section 3 of this bill requires the Secretary of State to conduct a hearing on each constitutional amendment or statewide measure proposed by initiative or referendum that will appear on the ballot at the general election.]~~

Section 5 of this bill requires the Secretary of State to determine, as soon as practicable after each general election, the number of signatures required to be gathered from each ~~assembly~~ petition district. Sections 6-9 of this bill provide procedures for the verification of signatures on a petition proposing a statute, an amendment to a statute or an amendment to the Constitution. Sections 7 and 9 require the Secretary of State to adopt regulations concerning these procedures. Section 10 of this bill requires the Secretary of State to provide on his website a current list of the registered voters in this State that indicates the ~~assembly~~ petition district in which each registered voter resides. Section 13 of this bill authorizes ~~to~~ the person signing a petition to indicate his petition district on the petition and, if not so indicated, allows the circulator of ~~to~~ the petition to ~~provide a registered voter access to the Internet through an electronic device for the purpose of determining the assembly district in which the voter resides.]~~ indicate the petition district of the person if known. Section 13 further allows a voter to consult the website of the Secretary of State to determine within which petition district he resides and to rely on that information.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as ~~sections 2 and 3~~ section 2 of this act.

Sec. 2. ~~["Assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of members of the~~

~~Assembly.] "Petition district" means a district established by the Legislature pursuant to section 3.2 of this act.~~

~~Sec. 3. 1. For each constitutional amendment or statewide measure proposed by initiative or referendum to be placed on the ballot by the Secretary of State, the Secretary of State shall, not less than 60 days before the election in which the initiative or referendum will appear on the ballot, conduct at least one public hearing pursuant to this section.~~

~~2. The Secretary of State shall provide notice of any hearing held pursuant to subsection 1. The Secretary of State shall:~~

~~(a) Place a notice of the time, date and place of the hearing on his Internet website at least 30 days before the date of the hearing.~~

~~(b) Cause notice of the time, date and place of the hearing to be published on three dates of publication before the hearing, the last of which must be at least 5 days before the hearing, in at least one newspaper of general circulation in each county of the State. There must be at least 10 days from the first to last dates of publication, including both the first and last days.~~

~~(c) Mail notice of the time, date and place of the hearing to each member of the two committees appointed pursuant to NRS 293.252 at least 10 days before the date of the hearing.~~

~~(d) Mail notice of the time, date and place of the hearing to each person or group of persons who submitted a petition for initiative or referendum to a county clerk.] (Deleted by amendment.)~~

Sec. 3.2. 1. The Legislature shall establish petition districts from which signatures for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to section 3.4 of this act.

Sec. 3.4. The Director of the Legislative Counsel Bureau shall:

1. Retain in an office of the Legislative Counsel Bureau, copies of maps of the petition districts established pursuant to section 3.2 of this act.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

3. File a copy of the maps with the Secretary of State.

Sec. 4. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, *and section 2 of this act*, have the meanings ascribed to them in those sections.

Sec. 5. NRS 293.127563 is hereby amended to read as follows:

293.127563 1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each ~~{county}~~ ~~{assembly}~~ petition district within the State for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State.

2. To determine the number of signatures required to be gathered from ~~{a county}~~ ~~{an assembly}~~ a petition district, the Secretary of State shall ~~{multiply}~~ calculate the amount that equals 10 percent of the voters who voted in ~~{the entire State}~~ that {assembly} petition district at the last preceding general election . ~~{by the population percentage for that county}~~.

~~3. As used in this section:~~

~~(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e).~~

~~(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e), by the total population of the State.~~

Sec. 6. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents *and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each* ~~{assembly}~~ petition district *contained fully or partially within his county and forward that information to the Secretary of State.*

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

Sec. 7. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county ~~{-}~~ and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each ~~{assembly}~~ petition district contained or fully contained within his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his determination.

4. *In the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, when the county clerk is determining the number of registered voters who signed the documents from each ~~{assembly}~~ petition district contained fully or partially within his county, he must use the statewide voter registration list available pursuant to NRS 293.675.*

5. Except as otherwise provided in subsection ~~{6,}~~ 7, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination, including the tally of signatures by ~~{assembly}~~ petition district, if required, and transmit the documents with the certificate to the Secretary of State. ~~If ~~{an assembly}~~ a petition district comprises more than one county and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate.~~ A copy of this certificate must be filed in the clerk's office. When

the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

~~{5-}~~ 6. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

~~{6-}~~ 7. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

~~{7-}~~ 8. The Secretary of State ~~{may}~~ shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 8. NRS 293.1278 is hereby amended to read as follows:

293.1278 1. If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 ~~{-}~~ and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each ~~assembly~~ petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient ~~{-}~~ and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each ~~assembly~~ petition district, the petition shall be deemed to qualify as of the date of receipt by the

Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

Sec. 9. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. Except as otherwise provided in this subsection, if the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State, if the statistical sampling shows that the number of valid signatures in any ~~county~~ ~~assembly~~ petition district is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that ~~county~~ ~~assembly~~ petition district pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk ~~in that~~ *or county clerks, if the ~~assembly~~ petition district comprises more than one county*, pursuant to NRS 295.055, the Secretary of State may order the county clerk to examine every signature for verification.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk *or county clerks* shall determine from the records of registration what number of registered voters have signed the petition ~~[-]~~ *and, if appropriate, tally those signatures by ~~assembly~~*

petition district. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition ~~[-]~~ and in determining in which ~~assembly~~ *petition district* the voters reside, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk *or county clerks* shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. *In the case of a petition to propose a statute, an amendment to a statute or an amendment to the Constitution, if ~~an assembly~~ a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the amended certificate.*

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

8. *The Secretary of State shall adopt regulations to carry out the provisions of this section.*

Sec. 10. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; ~~and~~

(c) *A current list of the registered voters in this State that also indicates the ~~assembly~~ petition district in which each registered voter resides;*

(d) *A map or maps indicating the boundaries of each ~~assembly~~ petition district; and*

(e) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 11. Chapter 295 of NRS is hereby amended by adding thereto a new section to read as follows:

~~["Assembly district" means a district] *[created pursuant to the provisions of chapter 218 of NRS for the election of members of the Assembly.]* "Petition district" has the meaning ascribed to it in section 2 of this act.~~

Sec. 12. NRS 295.012 is hereby amended to read as follows:

295.012 ~~[1.]~~ A petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution must be proposed by a number of registered voters from each ~~county~~ ~~assembly~~ *petition district* in the State that is at least equal to 10 percent of the voters who voted in ~~the entire State~~ *that assembly petition district* at the last preceding general election. ~~[multiplied by the population percentage for that county.]~~

2.—As used in this section:

(a) ~~"Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e).~~

(b) ~~"Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce~~

to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.]

Sec. 13. NRS 295.055 is hereby amended to read as follows:

295.055 1. The Secretary of State shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. The regulations must ensure that the format includes, without limitation, that:

(1) In addition to signing the petition, a person who signs a petition ~~[shall] [print]~~ :

(I) ~~[Print]~~ Shall print his given name followed by his surname on the petition before his signature ~~[]~~ ; and

(II) ~~[Indicate]~~ May indicate the ~~[assembly]~~ petition district in which he resides. If the person does not indicate the petition district on the petition, the circulator may indicate the petition district of the person if known.

(2) Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. *The registered voter may consult the list of the registered voters in this State posted on the website maintained by the Secretary of State pursuant to subsection 1 of NRS 293.4687 to determine the ~~[assembly]~~ petition district in which he resides. The registered voter may rely on the information contained in the list when he indicates the appropriate ~~[assembly]~~ petition district, unless he believes that the information is inaccurate.*

~~3. The circulator of the petition may carry with him an electronic device capable of accessing the Internet for use by a registered voter to access the list of registered voters in this State posted on the website maintained by the Secretary of State pursuant to NRS 293.4687. A circulator may not write in the assembly district for any registered voter.]~~

~~4.]~~ 3. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

~~3.]~~ ~~5.]~~ 4. A person who signs a petition may request that the county clerk remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.

Sec. 14. Notwithstanding the definition of "petition district" set forth in sections 2 and 11 of this act, until July 1, 2011, "petition district" as used in chapters 293 and 295 of NRS means congressional districts established for the State of Nevada.

Sec. 15. This act becomes effective upon passage and approval.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

This amendment makes a technical change. The Independent American Party brought to our attention in committee the need to clarify the language on section 13, which indicates that when an individual signs a petition, under subsection 2, they may indicate the petition district in which they reside. If the person does not indicate the petition district on the petition, the circulator may indicate the petition district of the person, if known. That would be done based on the web site

made available by the Secretary of State. This is important because many people do not know the districts that they reside in. With the petition district, that may become more problematic. This language clarifies that, and I urge the adoption of the amendment.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that the reprinting of Senate Bill No. 212 be dispensed with, that the Secretary be authorized to insert Amendments Nos. 984 and 996, adopted by the Senate, and the bill be declared an emergency measure under the Constitution and immediately placed on the General File for third reading and final passage.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 212.

Bill read third time.

Roll call on Senate Bill No. 212:

YEAS—20.

NAYS—Care.

Senate Bill No. 212 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess until 2 p.m.

Motion carried.

Senate in recess at 1:17 p.m.

SENATE IN SESSION

At 5:58 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day failed to sustain the Governor's veto of Senate Bills Nos. 234, 415; Assembly Bills Nos. 22, 135, 410, 446, 493 of the 75th Session.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 412.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 263, Assembly Amendment No. 891.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 263, Assembly Amendments Nos. 684, 870, and requests a conference, and appointed Assemblymen Kihuen, Segerblom and Hambrick as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 293, Assembly Amendments Nos. 712, 949, and requests a conference, and appointed Assemblymen Smith, Mastroluca and Hardy as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, McClain and Goicoechea as a Conference Committee concerning Assembly Bill No. 561.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the reports of the Conference Committees concerning Senate Bill No. 183; Assembly Bill Nos. 202; 309; 454.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 26.

Resolution read.

Senator Woodhouse moved the adoption of the resolution as amended.

Resolution adopted as amended.

Resolution ordered transmitted to the Assembly.

Assembly Concurrent Resolution No. 30.

Resolution read.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 995.

"SUMMARY—Directs the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers and issues concerning infrastructure and transportation in this State. (BDR R-1305)"

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers and issues concerning infrastructure and transportation in this State.

WHEREAS, The creation of new jobs and promoting diversification of the Nevada economy is a critical need and an overriding goal of the Legislature; and

WHEREAS, Nevada is uniquely positioned by virtue of its location and favorable business climate to serve as a logistics and distribution center for the receipt, shipment and assembly of goods on the West Coast to points north and east; and

WHEREAS, The Nevada System of Higher Education, including the state universities in Reno and Las Vegas, has expertise in supply chain management and can provide consulting support, managerial development through degree programs and job training opportunities; and

WHEREAS, Foreign trade zones exist in both southern and northern Nevada for the purpose, among other things, of facilitating the growth of logistics and distribution centers; and

WHEREAS, The ~~proposed Ivanpah Valley Airport in~~ Clark County, ~~the~~ Regional Airport System, the Tahoe-Reno Industrial Center in Storey County and the Reno-Tahoe International Airport are poised for future development

as logistics and distribution centers and for the creation of a wide range of jobs in supply chain management; and

WHEREAS, The Elko County Rail Port provides additional opportunities for east-west distribution of goods and development of a logistics cluster; and

WHEREAS, *The continuing growth of the population in Nevada has caused growing traffic congestion, environmental issues as a result of such congestion and difficulty in maintaining and expanding the transportation infrastructure in this State because of financial, environmental and physical constraints; and*

WHEREAS, Mass transportation systems *and the infrastructure for transportation systems* play an integral role in supporting the diversification and expansion of the workforce and economy; and

WHEREAS, Efficient mass transportation systems *and the infrastructure for transportation systems* reduce environmental degradation and decrease congestion on major roadways; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a subcommittee to study the development and promotion of Nevada as a logistics and distribution center ~~and~~ *and issues concerning infrastructure and transportation;* and be it further

RESOLVED, *That to facilitate the investment of private capital in logistics and distribution centers, the subcommittee may solicit input from representatives of state and local economic development organizations, interstate transportation facilities in Nevada, transport and logistics companies, manufacturing and other business interests, foreign trade zones, institutions within the Nevada System of Higher Education, and such other governmental or private stakeholders as the subcommittee deems appropriate; and be it further*

RESOLVED, That the subcommittee shall formulate a strategy and develop an implementation plan detailing the steps that need to be taken to create and promote the further development of Nevada as a logistics and distribution center which must include, without limitation:

1. Identification of barriers to the development of logistics and distribution centers;

2. The costs and benefits associated with expanding mass transportation systems ~~and~~ *and developing the necessary infrastructure for transportation systems;*

3. Delineation of future foreign trade zones;

4. Prioritization of infrastructure needs, including energy and water *infrastructure* and ~~mass~~ *transportation systems* ~~and~~ *including mass transportation systems and light rail corridors;*

5. Formation of public-private partnerships for financing and incubation of new businesses;

6. Funding options for the expansion of mass ~~transit systems;~~ *transportation systems and light rail corridors;*

7. Attraction of businesses associated with supply chain management activities, including assembly, manufacturing, warehousing and transportation; and

8. Identification of strategic public policy actions to expedite the investment of private development companies in major logistics centers in Nevada; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 76th Session of the Nevada Legislature.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

This amendment makes certain technical changes to the first reprint of Assembly Concurrent Resolution No. 30. It provides additional authorizing language that expands the scope of the study to include a broad range of transportation and infrastructure issues including mass-transit systems and light-rail corridors. It deletes a reference to the proposed Ivanpah Valley Airport and replaces it with Clark County Regional Airport System, and it adds a new resolve statement authorizing the subcommittee to solicit input as it deems appropriate from various state and local agencies and organizations that are associated with the topic as well as from business entities and representatives of the Nevada System of Higher Education. This measure is one of the designated Assembly interim studies.

Amendment adopted.

Resolution ordered reprinted, reengrossed and to the Resolution File.

SECOND READING AND AMENDMENT

Assembly Bill No. 451.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 990.

"SUMMARY—Establishes a program for the ~~issuance of state obligations to provide venture capital~~ *investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans* to certain ~~minority-owned~~ *small* businesses in this State. (BDR 31-613)"

"AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans to certain ~~minority-owned and other~~ small businesses in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows the State Treasurer to invest the money of this State in negotiable certificates of deposit issued by commercial banks, insured credit unions or insured savings and loan associations. (NRS 355.140) Section 15 of this bill requires the State Treasurer to establish a Linked Deposit Program whereby the State, in an aggregate amount not to exceed \$20,000,000, invests in certificates of deposit with commercial banks, insured credit

unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each certificate of deposit to a reduced-rate loan to certain types of small businesses. Section 15 also provides that the rate of interest paid to the State on the deposit is to be not more than 2 percentage points below the market rate for such a deposit, and the loan rate is to be reduced not more than 2 percentage points below the market rate for such a loan. Further, section 15 requires a lending institution to sign an agreement with the State Treasurer as to the terms of such a deposit and its linked loan.

Section 17 of this bill requires a lending institution that participates in the Linked Deposit Program to apply all the usual lending standards to determine the creditworthiness of a small business seeking a loan and further requires that a preference be given to certain small businesses that ;(1) are owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States ~~;~~ ; or (2) engage in the production and sale of fuel or power from an energy source other than a fossil fuel. Section 19 of this bill limits such loans to not more than \$500,000 and to a term of not longer than 10 years. Section 18 of this bill limits the types of businesses that are eligible to participate in the Linked Deposit Program.

Section 21 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 20, inclusive, of this act.

Sec. 13. *The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of reduced-rate lending to minority-owned and certain other small businesses.*

Sec. 14. *As used in sections 13 to 20, inclusive, of this act, unless the context otherwise requires:*

1. *"Eligible small business" means a business that meets the requirements of section 18 of this act.*

2. "Linked deposit" means a certificate of deposit issued pursuant to sections 15 to 20, inclusive, of this act to the State Treasurer by a qualified lending institution at an interest rate not more than 2 percent below the current market rate on the condition that the institution agrees to lend the value of the deposit, according to a deposit agreement made pursuant to section 15 of this act, to an eligible small business at a rate that is at least 2 percent lower than the current market rate for such a loan.

3. "Qualified lending institution" means a commercial bank, a savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 16 of this act.

Sec. 15. 1. The State Treasurer shall establish a Linked Deposit Program to increase the availability of reduced-rate loans to certain small businesses owned and operated in this State.

2. The State Treasurer may invest in reduced-rate certificates of deposit with qualified lending institutions upon acceptance of a loan package pursuant to this section and section 17 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be linked to a reduced-rate loan made by the qualified lending institution to an eligible small business.

3. The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, \$20,000,000.

4. The State Treasurer may accept or reject a linked deposit loan package presented by a qualified lending institution.

5. Upon acceptance of a linked deposit loan package from a qualified lending institution:

(a) The State Treasurer may place a linked deposit with the lending institution at a rate that is not more than 2 percentage points below the market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include requirements necessary to carry out the purposes of sections 13 to 20, inclusive, of this act. The deposit agreement must specify, without limitation:

- (1) The rate of interest to be paid on the deposit;
- (2) The rate of interest to be charged for the loan linked to the deposit;
- (3) That the qualified lending institution:

(I) Shall loan an amount equal to the amount of the deposit to an eligible small business at a rate that is reduced from the current market rate for such a loan in the same amount as the reduction in rate received from the State Treasurer for the linked deposit;

(II) Shall verify that the small business is eligible for such a loan;

(III) Shall collect and supply the State Treasurer with any information requested as to the loan and the eligible small business; and

(IV) Shall notify the State Treasurer immediately if the eligible small business becomes ineligible for the Linked Deposit Program during the term of the loan; and

(4) That the rate of interest to be paid on the deposit will revert to the current market rate at the time the eligible small business becomes ineligible for the Linked Deposit Program.

6. The State Treasurer shall compile and maintain on his Internet website a list of small businesses that have received loans from the Linked Deposit Program. The list must include, without limitation, for each business listed:

- (a) The name of the business;
- (b) The type of business;
- (c) The location of the business;
- (d) The amount and term of the linked deposit loan; and
- (e) The name and location of the qualified lending institution that made the loan.

Sec. 16. 1. ~~The State Board of Finance shall qualify a lending institution for participation in the Linked Deposit Program established by the State Treasurer pursuant to section 15 of this act.~~

~~2.~~ To qualify for participation in the Linked Deposit Program, a lending institution must:

- (a) Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;
- (b) Agree to actively advertise to and inform small businesses of the availability of reduced-rate loans through the Linked Deposit Program;
- (c) Make information about the Linked Deposit Program available on the public Internet website of the institution, if any; and
- (d) Apply for qualification on a form provided by the State ~~Board of Finance~~

~~3.~~ Treasurer.

2. The State ~~Board of Finance~~ Treasurer shall adopt regulations necessary to carry out the provisions of this section.

Sec. 17. 1. A qualified lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible small businesses on a form provided by the State Treasurer. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business, including, without limitation, the consideration of:

- (a) Character, reputation and credit history of the applicant;
- (b) Experience and depth of management;
- (c) Strength of the business;
- (d) Past earnings, projected cash flow and future prospects;
- (e) Ability to repay the loan with earnings from the business;
- (f) Sufficient invested equity to operate on a sound financial basis; and

(g) *Potential for long-term success.*

2. *In determining which small business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal:*

(a) *First, to a business that is at least 51-percent owned by a resident of this State who is:*

(1) *A member of a racial or ethnic minority;*

(2) *A woman; or*

(3) *An honorably discharged veteran of the Armed Forces of the United States.*

(b) *Second, to a business engaged in the production and sale of fuel or power from an energy source other than a fossil fuel, including, without limitation, geothermal, hydroelectric, solar or wind energy.*

3. *A qualified lending institution must submit a loan package to the State Treasurer for each Linked Deposit Program loan, on a form provided by the State Treasurer. The loan package must include, without limitation, verification by the qualified lending institution that the eligible small business meets the requirements of this section and section 18 of this act and that the use of proceeds as specified in the loan meets the requirements of section 19 of this act.*

Sec. 18. 1. *To be eligible for a loan from a qualified lending institution pursuant to the Linked Deposit Program established pursuant to section 15 of this act, a business must:*

(a) *Employ not more than 50 employees;*

(b) *Be headquartered in this State;*

(c) *Maintain offices or operating facilities in this State;*

(d) *Transact business in this State;*

(e) *Be organized for profit;*

(f) *Have gross annual sales of less than \$5,000,000 at the time of application pursuant to this section;*

(g) *Satisfy the lending criteria of the qualified lending institution;*

(h) *Submit verification of eligibility for a linked deposit loan with a qualified lending institution on a form provided by the State Treasurer; and*

(i) *Submit an application for a linked deposit loan with a qualified lending institution on a form provided by the qualified lending institution.*

2. *The following types of businesses are not eligible for a loan from a qualified lending institution under the Linked Deposit Program established pursuant to section 15 of this act:*

(a) *Nonprofit businesses;*

(b) *Financial businesses engaged primarily in the business of lending, including, without limitation, banks, finance companies and pawnbrokers;*

(c) *Speculative real estate development companies;*

(d) *Subsidiaries of businesses located in a foreign country;*

(e) *Businesses which have previously defaulted on a Linked Deposit Program loan or federally assisted financing; and*

(f) *Businesses which engage in any illegal activity. ~~f, and~~*

~~(g) Any business which is ineligible under regulations adopted by the State Treasurer pursuant to section 20 of this act.]~~

Sec. 19. 1. *A reduced-rate loan made pursuant to the Linked Deposit Program may not:*

- (a) Exceed \$500,000; and*
- (b) Have a term of more than 10 years.*

2. *An eligible small business may use loan proceeds from a linked deposit reduced-rate loan for the following purposes:*

- (a) Working capital;*
- (b) Real property acquisition;*
- (c) Establishing a line of credit;*
- (d) Financing of accounts receivable;*
- (e) Purchase of equipment, except that such equipment must not be purchased to replace the work or function of employees, resulting in layoffs or downsizing; and*
- (f) Any other purpose permissible under regulations adopted by the State Treasurer pursuant to section 20 of this act.*

Sec. 20. *The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 13 to 20, inclusive, of this act.*

Sec. 21. Notwithstanding the provisions of section 15 of this act, the State Treasurer shall not accept a linked deposit loan package or invest in a reduced-rate certificate of deposit after June 30, 2011.

Sec. 22. This section and sections 12 to 21, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Hardy.

Senator Lee requested that the following remarks be entered in the Journal.

SENATOR LEE:

Amendment No. 990 to Assembly Bill No. 451 provides that a lending institution must apply to the State Treasurer instead of the State Board of Finance for qualification to participate in the program. It provides that the State Treasurer, rather than the State Board of Finance, shall adopt regulations needed to carry out provisions regarding this qualification process.

It deletes language that would have given the State Treasurer, through regulation, the ability to deem "any business" ineligible for the program, and it makes a technical change in both the summary of the bill and the digest.

The technical change in the summary removes the reference to venture capital, as those provisions were actually removed in the Assembly amendment. The technical change in the digest simply includes existing language in section 17, subsection 2(b). This makes the digest more complete and accurate to the contents in the bill.

SENATOR HARDY:

Under the amendment, this capital is available for all small businesses at this point. Is that correct?

SENATOR LEE:

That is how I understand the bill. In the original bill, they could be discriminated against under the sole discretion of the Treasurer. Now, that is not true. Anyone can apply.

SENATOR HARDY:

The small businesses are identified in section 18?

SENATOR LEE:

If that is the section you are referring to, yes.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 208.

Bill read third time.

Remarks by Senators Cegavske, Coffin and Townsend.

Senator Cegavske requested that the following remarks be entered in the Journal.

SENATOR CEGAVSKE:

Could someone give me some information on the section dealing with the additional tax liability incurred by the public utilities and local government franchises? Do you have a list of the local governments and franchises that would be increasing their fees?

SENATOR COFFIN:

The list was given to the committee, and I will make certain you have a list before we adjourn sine die.

SENATOR CEGAVSKE:

I would like to see it before voting on this. Did you look at the amounts that will be increased to offset the costs for each of these?

SENATOR COFFIN:

It will be whatever a small fragment of the Modified Business Tax would be for that period. It can be calculated if anyone has the time to do so.

SENATOR TOWNSEND:

On page 2, there is a standard definition for public utility on line 13. By signing a franchise agreement, you regulate the rates either through the Public Utilities Commission or through a local government entity. You cannot fluctuate your prices; you must be authorized to change your rates whether it is a trash rate, a cable rate, a telephone rate, electric rate, gas rate, etc. This bill allows that anything we do with regard to the Modified Business Tax to be passed on. It will include anyone who has a franchise agreement with a local government.

SENATOR CEGAVSKE:

I was hoping that we had some kind of calculation of what we are passing on to our constituents. Garbage will be raised. Cable will be raised. I wanted a list of all the others and what is going to be raised for each entity.

Roll call on Senate Bill No. 208:

YEAS—19.

NAYS—Cegavske.

ABSENT—Amodei.

Senate Bill No. 208 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 303.

Bill read third time.

Roll call on Senate Bill No. 303:

YEAS—20.

NAYS—None.

ABSENT—Amodei.

Senate Bill No. 303 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 355.

Bill read third time.

Roll call on Assembly Bill No. 355:

YEAS—20.

NAYS—None.

ABSENT—Amodei.

Assembly Bill No. 355 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 242.

The following Assembly amendment was read:

Amendment No. 978.

"SUMMARY—Enacts provisions relating to energy efficiency ~~and renewable energy and building construction.~~" (BDR 58-378)"

"AN ACT relating to energy; requiring ~~certain contractors to offer upgrades for renewable energy and energy efficiency; requiring certain contractors assisting buyers in obtaining financing to offer, or work with lenders that offer, energy-efficient mortgages; requiring licensees of the Real Estate Division of the Department of Business and Industry to make certain information about energy efficiency in residential property available to each party to a real estate transaction; revising continuing education requirements relating to energy efficiency for real estate brokers, real estate broker-salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers;~~ *the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth standards of efficiency for certain appliances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 4 of this bill: (1) requires a contractor to offer certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which will be built by the contractor as part of a development of 25 or more single family residences; and (2) requires a contractor to offer information about retrofitting certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which has already been built by the contractor as part of a development of 25 or more single family residences.~~

~~Section 5 of this bill requires a contractor who arranges financing for the purchase of a single family residence which is built by the contractor as part of a development of 25 or more single family residences to offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage. If the contractor does not arrange financing for buyers, section 5 requires the contractor to provide information to buyers concerning energy efficient mortgages.~~

~~Section 8 of this bill requires licensees of the Real Estate Division of the Department of Business and Industry to distribute free of charge to each party to a real estate transaction written information which is available publicly and which is designed to assist in the identification, evaluation and selection of energy efficiency and conservation features in residential property. Sections 11, 12 and 13 of this bill amend the continuing education requirements for real estate brokers, real estate broker salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers to include a requirement for training in energy efficiency and conservation features in residential property. (NRS 645.575, 645B.051, 645C.440)~~

~~Sections 11.5 and 13.5 of this bill allow a new component of not more than 1 hour of instruction concerning energy efficiency in residential property to be added to an existing course of continuing education without the Division charging accreditation or approval fees for the addition of the new component to the course. (NRS 645.830, 645C.450). This bill requires the Director of the Office of Energy within the Office of the Governor to adopt, for the sole purpose of qualifying for any rebates, regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with federal law.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~{Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.} (Deleted by amendment.)~~

Sec. 4. ~~{1. A contractor shall offer a choice of upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which will be built by the contractor as part of a development of 25 or more single family residences. The upgrades may be offered in a package, but the contractor shall allow the person to select individual upgrades and shall not require the selection of an entire package. Qualifying upgrades include, without limitation:~~

- ~~(a) Awnings and shutters;~~
- ~~(b) Cool roof coating;~~
- ~~(c) Energy efficient appliances;~~
- ~~(d) A ground source heat pump;~~
- ~~(e) Low emissivity windows;~~
- ~~(f) A programmable thermostat;~~

~~(g) Ridge vents;~~

~~(h) A system for solar energy that:~~

~~(1) Consists of a photovoltaic solar collector, or other device for photovoltaic solar energy, that has a primary purpose of providing for the collection, storage and distribution of solar energy for the generation of electricity; and~~

~~(2) Produces an average of at least 2 kilowatts of alternating current of electricity;~~

~~(i) A system for solar thermal energy that has a primary purpose of providing for the collection, storage and distribution of solar energy for the production of hot water or air for space heating or water heating; and~~

~~(j) A charging station for an electric vehicle.~~

~~2. A contractor shall provide information on retrofitting qualifying upgrades for renewable energy and energy efficiency set forth in subsection 1 to a person who negotiates to purchase a single family residence which the contractor has already built as part of a development of 25 or more single family residences. (Deleted by amendment.)~~

~~Sec. 5. [1. A contractor who:~~

~~(a) Directly or through an affiliate, subsidiary or other related entity arranges financing for the purchase of a single family residence which is built by the contractor as part of a development of 25 or more single family residences shall offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage;~~

~~(b) Does not arrange financing for the purchase of a single family residence specified in paragraph (a) shall provide to the purchaser, free of charge, written information concerning energy efficient mortgages which must include, without limitation, the information concerning energy efficient mortgages available publicly from the United States Department of Energy, the Environmental Protection Agency, the Federal Housing Administration and the Department of Housing and Urban Development.~~

~~2. As used in this section, "energy efficient mortgage" means a mortgage which credits the energy efficiency of a home in the mortgage by providing borrowers with the opportunity to finance cost effective and energy saving measures as part of a single mortgage and by increasing debt to income qualifying ratios on loans. (Deleted by amendment.)~~

~~Sec. 6. [Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act. (Deleted by amendment.)~~

~~Sec. 7. ["Residential property" has the meaning ascribed to it in NRS 113.100. (Deleted by amendment.)~~

~~Sec. 8. [A licensee shall provide, free of charge, to each party to a real estate transaction written information which is available publicly and which is designed to assist a person in the identification, evaluation and selection of energy efficiency and conservation features in residential property. The written information must include, without limitation, information relating to:~~

~~1. Appliances;~~

- ~~2. Building materials used in homes;~~
- ~~3. Cool roofs;~~
- ~~4. Energy efficient mortgages and financing;~~
- ~~5. "Green" home certification programs;~~
- ~~6. Heating and cooling systems, including water heating systems;~~
- ~~7. Home energy audits and ratings;~~
- ~~8. Insulation;~~
- ~~9. Landscaping;~~
- ~~10. Lighting and day lighting;~~
- ~~11. Passive solar heating;~~
- ~~12. Solar electricity;~~
- ~~13. Water conserving devices; and~~
- ~~14. Windows.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 645.0005 is hereby amended to read as follows:~~

~~645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, and section 7 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 645.194 is hereby amended to read as follows:~~

~~645.194 1. The Division shall prepare a booklet that provides relevant information concerning the disclosures that are required by federal, state and local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.~~

~~2. The Division shall make copies of the booklet prepared pursuant to subsection 1 available to licensees which the licensee must distribute to prospective buyers and sellers in the sale of residential property in accordance with the regulations adopted by the Commission.~~

~~3. The Commission shall approve the format and content of the information that must be included in the booklet.~~

~~{4. As used in this section, "residential property" has the meaning ascribed to it in NRS 113.100.} (Deleted by amendment.)~~

Sec. 11. ~~[NRS 645.575 is hereby amended to read as follows:~~

~~645.575 1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter.~~

~~2. The standards adopted pursuant to subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this~~

~~section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.~~

~~3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:~~

~~(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person.~~

~~(b) Require a person whose license as a real estate broker or real estate broker salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343 [.] before the person's license is reissued or reinstated.~~

~~4. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a person who holds a license as a real estate broker, real estate broker salesman or real estate salesman to complete instruction in energy efficiency in residential property which includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act.~~

~~5. Except as otherwise provided in this subsection, the license of a real estate broker, broker salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.] (Deleted by amendment.)~~

Sec. 11.5. ~~[NRS 645.830 is hereby amended to read as follows:~~

~~645.830 1. [The] Except as otherwise provided in subsection 3, the following fees must be charged by and paid to the Division:~~

For each original real estate broker's, broker salesman's or	
corporate broker's license.....	\$105
For each original real estate salesman's license	85
For each original branch office license	120
For real estate education, research and recovery to be paid at the	
time an application for an original license is filed	\$40
For real estate education, research and recovery to be paid at the	
time an application for renewal of a license is filed.....	40
For each renewal of a real estate broker's, broker salesman's	
or corporate broker's license	180
For each renewal of a real estate salesman's license	140

For each renewal of a real estate branch office license	110
For each penalty for late filing of a renewal for a broker's, broker salesman's or corporate broker's license	95
For each penalty for late filing of a renewal for a salesman's license	75
For each change of name or address	20
For each transfer of a real estate salesman's or broker salesman's license and change of association or employment	20
For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof	20
For each change of broker status from broker to broker salesman	20
For each change of broker status from broker salesman to broker	40
For each reinstatement to active status of an inactive real estate broker's, broker salesman's or salesman's license	20
For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location	30
For each reinstatement of a real estate salesman's or broker salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker	30
For each original registration of an owner developer	125
For each annual renewal of a registration of an owner developer	125
For each enlargement of the area of an owner developer's registration	50
For each cooperative certificate issued to an out of state broker licensee for 1 year or fraction thereof	150
For each original accreditation of a course of continuing education	\$100
For each renewal of accreditation of a course of continuing education	50
For each annual approval of a course of instruction offered in preparation for an original license or permit	100

~~2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:~~

- ~~(a) Any university, state college or community college of the Nevada System of Higher Education.~~
- ~~(b) Any agency of the State.~~
- ~~(c) Any regulatory agency of the Federal Government.~~

~~3. The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of the existing course of continuing education.~~

~~4. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 645B.051 is hereby amended to read as follows:~~

~~645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:~~

~~(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12 month period, the extra hours may be used to satisfy the requirement for the immediately following 12 month period and for that immediately following 12 month period only.~~

~~3. In addition to any other standards for continuing education that the Commissioner adopts by regulation pursuant to NRS 645B.0138, the Commissioner shall adopt by regulation standards for continuing education that require a licensee to complete a course of instruction which includes, without limitation, instruction related to energy efficient mortgages and financing.~~

~~4. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.] (Deleted by amendment.)~~

Sec. 12.5. ~~[NRS 645C.340 is hereby amended to read as follows:~~

~~645C.340 1. Each application for an examination for a certificate or license must be accompanied by the fees established by the Division pursuant to subsection [2] 3 of NRS 645C.450.~~

~~2. The examination must test the applicant on his knowledge and understanding of:~~

~~(a) Subjects applicable to the type of certificate or license for which he is applying; and~~

~~(b) Laws regarding the practice of preparing and communicating appraisals, including the provisions of this chapter and any regulations adopted pursuant thereto.~~

~~3. The Division may hire a professional testing organization to create, administer or score the examination. (Deleted by amendment.)~~

Sec. 13. ~~[NRS 645C.440 is hereby amended to read as follows:~~

~~645C.440 1. The Commission shall adopt regulations governing the continuing education of certified or licensed appraisers. The regulations must include the criteria for approving each course and the requirements for submission of proof of attendance at a course.~~

~~2. In approving courses for continuing education, the Commission shall authorize a variety of subjects and give consideration to specialized areas of practice and the availability of programs. An appropriate educational course given by an accredited university or community college must be approved by the Commission.~~

~~3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a certified or licensed appraiser to complete instruction in energy efficiency in residential property which includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act. (Deleted by amendment.)~~

Sec. 13.5. ~~[NRS 645C.450 is hereby amended to read as follows:~~

~~645C.450 1. [The] Except as otherwise provided in subsection 2, the following fees may be charged and collected by the Division:~~

Application for a certificate, license or registration card\$100
Issuance or renewal of a certificate or license as a residential	
 appraiser200
Issuance or renewal of a certificate as a general appraiser300
Issuance of a permit115
Issuance or renewal of a registration card100
Issuance of a duplicate certificate or license for an additional	
 office50
Change in the name or location of a business20
Reinstatement of an inactive certificate or license30
Annual approval of a course of instruction offered in preparation	
 for an initial certificate or license100
Original approval of a course of instruction offered for continuing	
 education100
Renewal of approval of a course of instruction offered for	
 continuing education50

~~2. The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of~~

~~instruction concerning energy efficiency in residential property is added to the curriculum of the existing course of instruction for continuing education.~~

~~3. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:~~

~~(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination.~~

~~(b) Any investigation of a person's background. (Deleted by amendment.)~~

Sec. 14. (Deleted by amendment.)

Sec. 14.3. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, or any grants or gifts, the Director shall, for the sole purpose of qualifying for any rebates, adopt regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with the program established pursuant to 42 U.S.C. §§ 6294a et seq.

Sec. 14.7. Notwithstanding the provisions of NRS 701.250, until such time as the regulations described in NRS 701.250 are adopted by the Nevada Energy Commissioner, any program for evaluating the energy consumption of residential property in this State:

1. Must utilize the standards established by the American Building Rating Performance System of the Residential Energy Services Network or its successor; and

2. Must not assign a rating or score to any residential property in this State based on the energy consumption of that particular property.

Sec. 15. ~~{1.} This {section and section 14 of this act become} act becomes~~ effective upon passage and approval.

~~{2. Section 8 of this act becomes effective:~~

~~(a) Upon passage and approval for the purpose of taking any actions required by a licensee to provide written information concerning energy efficiency and conservation specified in that section; and~~

~~(b) On October 1, 2009, for all other purposes.~~

~~3. Sections 1, 11, 11.5, 12, 13 and 13.5 of this act become effective upon passage and approval for the purpose of adopting regulations and October 1, 2009, for all other purposes.~~

~~4. Sections 2 to 5, inclusive, 6, 7, 9, 10 and 12.5 of this act become effective on October 1, 2009.~~

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 242.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 223, that a conference be requested, and that

Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

The Senate amendment to Assembly Bill No. 223 clarified the applicability of certain bidders' preferences and set forth an identical preference of 5 percent for service-disabled veterans as is currently offered to locally owned businesses. We need to discuss this further in a conference committee.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Lee, Raggio and Care as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 223.

RECEDE FROM SENATE AMENDMENTS

Senator Care moved that the Senate do not recede from its action on Assembly Bill No. 385, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Care, Wiener and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 385.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 55, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 588 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 15, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes concerning commercial recordings. (BDR 7-413)"

"AN ACT relating to business entities; providing that business entities may cancel filings made with the Secretary of State under certain circumstances; revising the provisions relating to the resignation of a registered agent; revising the provisions relating to the filing of certain lists by business entities; ~~clarifying the provisions relating to the applicability of certain provisions concerning taxation of a business;~~ revising provisions relating to the payment of dividends or distributions of stock to a judgment creditor; revising provisions relating to domestication of an undomesticated organization; making various other changes pertaining to business entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1, 3, 7, 8, 11, 14, 16, 22, 29, 31, 39, 50 and 53 of this bill authorize certain business entities that have made a filing with the Secretary of State to cancel the filing if: (1) the Secretary of State has not processed the filing and placed the filing into the public record; and (2) the business entity pays the required fee. (NRS 78.0295, 80.007, 81.006, 82.534, 84.009, 86.568, 87.547, 87A.275, 88.339, 88A.930)

Section 2.5 of this bill amends existing law, which requires a registered agent who wishes to resign with respect to a represented entity to file with the Secretary of State a statement of resignation which includes the name and address of the person to which the agent will send the notice of resignation, to require such registered agent to file with the Secretary of State an affidavit stating that written notice was provided to each represented entity and to keep a copy of such notice on file for 1 year from the date of filing the statement of resignation and to make any such copy available to the Secretary of State upon request. (NRS 77.370)

Sections 4, 9, 13, 18, 20, 24, 26, 32, 34, 40, 42, 47 and 48 of this bill amend existing law, which requires the Secretary of State to mail certain notices and blank forms to certain business entities, to authorize the Secretary of State to provide instead, by any means, notice to those business entities of the applicable statutory obligations to file certain lists. (NRS 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732)

Sections 5, 10, 12, 17, 21, 25, 27, 30, 35, 37, 38, 43, 45, 46, 49, 51 and 52 of this bill provide that a business entity is required to provide the Secretary of State certain information concerning its owners of record only upon the request of the Secretary of State. (NRS 78.152, 80.113, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251)

Under existing law, a corporation sole may be formed for acquiring, holding or disposing of church or religious society property, for the benefit of religion, for works of charity and for public worship. Existing law provides the procedures for forming a corporation sole, the powers of a corporation sole and the process of default, reinstatement or revocation of a charter of a corporation sole. (Chapter 84 of NRS)

Sections 15.5 and 16.2-16.8 of this bill provide that: (1) existing corporations sole may continue in existence; and (2) no new corporations sole may be formed in the future, except that certain subordinate corporations sole may be formed until July 1, 2011.

Sections 23 and 28 of this bill make technical corrections: (1) to an incorrect reference concerning a registered limited-liability partnership; and (2) to include a reference to the requirement to provide information concerning a registered agent when a foreign registered limited-liability partnership is seeking reinstatement. (NRS 87.480, 87.5435)

Section 6.5 of this bill amends existing law to: (1) define the rights of a judgment creditor who, by court order, receives the distribution or dividend of shares of stock from a stockholder who is the judgment debtor; (2) expand the applicability of the court order to corporations with more than 1 but fewer than 100 shareholders; and (3) provide that the court order does not ~~supercede~~ *supersede* a private agreement between the stockholder and the creditor if the agreement does not conflict with the corporation's articles of incorporation, bylaws or a shareholder agreement to which the stockholder is a party. (NRS 78.746)

Sections 36 and 44 of this bill authorize a partnership to register as a limited-liability limited partnership by filing a combined certificate with the Secretary of State and paying the appropriate fee. (NRS 87A.630, 88.606)

Section 53.5 of this bill amends existing law to provide that an undomesticated organization seeking domestication in this State must provide a certified copy of the charter document and a certificate of good standing, or the equivalent, from the jurisdiction where the organization was chartered immediately preceding the application for domestication. Additionally, section 53.5 addresses the liability of a shareholder or other type of owner of the organization before and after domestication of the organization in this State. Finally, section 53.5 expands the availability of domestication in this State from only organizations governed by the laws of a foreign country or jurisdiction outside the United States to include organizations governed by the laws of any state other than this State, including those of other states within the United States. (NRS 92A.270)

~~f Section 54 of this bill amends the existing definition of "business" to include any entity organized pursuant to title 7 of NRS, including an entity required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit, other than a nonprofit corporation or a corporation sole, which clarifies that such a business is required to: (1) obtain a state business license; and (2) register with the Department of Taxation if the~~

~~business purchases tangible personal property for storage, use or other consumption in this State. (NRS 360.765, 372.220)~~

~~Section 55 of this bill provides that if an applicant for a state business license is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the applicant must include in its application the exact name on file with the Secretary of State. (NRS 360.780) Section 55 also clarifies that for the purposes of the statutory provisions requiring a person to obtain a state business license, a person is deemed to be conducting a business in this State if a business for which the person is responsible has a registered agent in this State.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 77 of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. *Filing a statement of cancellation with the Secretary of State; and*
2. *Paying a fee of \$50.*

Sec. 1.5. NRS 77.300 is hereby amended to read as follows:

77.300 Whenever a provision of this chapter ~~other than paragraph (d) of subsection 1 of NRS 77.370~~ requires that a filing state an address, the filing must state:

1. An actual street address or rural route box number in this State; and
2. A mailing address in this State, if different from the address under subsection 1.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 77.370 is hereby amended to read as follows:

77.370 1. A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

- (a) The name of the entity;
- (b) The name of the agent; *and*
- (c) That the agent resigns from serving as agent for service of process for the entity. ~~It and~~
- ~~(d) The name and address of the person to which the agent will send the notice required by subsection 3.~~

2. A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed ~~It and shall file with the Secretary of State an affidavit stating that written notice of the resignation has been provided to each represented entity. The affidavit must include the name of each represented entity that was provided notice, but is not required to include the contact information of the represented entity or the names of the interest holders of the represented entity. The registered agent shall keep a copy of each notice provided to a represented entity on file for 1 year after the date of filing the statement of resignation and shall make any such copy available to the Secretary of State upon request.~~

4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the agent or that the agent may have against the entity.

5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

Sec. 3. NRS 78.0295 is hereby amended to read as follows:

78.0295 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

- (a) Prepare a certificate of correction which:
 - (1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;
 (3) Specifies the inaccuracy or defect;
 (4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of \$175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. *If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:*

(a) *Filing a statement of cancellation with the Secretary of State; and*

(b) *Paying the required fee pursuant to subsection 7 of NRS 78.785.*

Sec. 4. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of NRS 360.780; and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of \$125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less\$125

Over \$75,000 and not over \$200,000175

Over \$200,000 and not over \$500,000275

Over \$500,000 and not over \$1,000,000375

Over \$1,000,000:

For the first \$1,000,000375

For each additional \$500,000 or fraction thereof275

↪ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, ~~cause to be mailed~~ provide to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice ~~for form~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 5. NRS 78.152 is hereby amended to read as follows:

78.152 1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

- (a) A current list of its owners of record; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ Upon the request of the Secretary of State, the corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

- (a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or
- (b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

- (a) The corporation complies with the requirements of subsection 3; or
- (b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. NRS 78.746 is hereby amended to read as follows:

78.746 1. On application to a court of competent jurisdiction by a judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. This section:

- (a) Applies only to a corporation that:
 - (1) Has more than 1 but fewer than ~~75~~ 100 stockholders of record at any time.
 - (2) Is not a subsidiary of a publicly traded corporation, either in whole or in part.
 - (3) Is not a professional corporation as defined in NRS 89.020.

(b) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.

(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.

(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(e) Does not supersede any private agreement between a stockholder and a creditor ~~if~~ *if the private agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.*

3. *As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.*

Sec. 7. Chapter 78A of NRS is hereby amended by adding thereto a new section to read as follows:

If a close corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the close corporation may cancel the filing by:

1. *Filing a statement of cancellation with the Secretary of State; and*
2. *Paying the required fee pursuant to subsection 7 of NRS 78.785.*

Sec. 8. NRS 80.007 is hereby amended to read as follows:

80.007 1. A foreign corporation may correct a record filed in the Office of the Secretary of State if the record contains an incorrect statement or was defectively signed, attested, sealed or verified.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

- (1) States the name of the corporation;
- (2) Describes the record, including, without limitation, its filing date;
- (3) Specifies the inaccuracy or defect;
- (4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of \$175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. *If a foreign corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the foreign corporation may cancel the filing by:*

- (a) *Filing a statement of cancellation with the Secretary of State; and*
- (b) *Paying the required fee pursuant to subsection 7 of NRS 78.785.*

Sec. 9. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less	\$125
Over \$75,000 and not over \$200,000	175
Over \$200,000 and not over \$500,000	275
Over \$500,000 and not over \$1,000,000	375
Over \$1,000,000:	
For the first \$1,000,000	375
For each additional \$500,000 or fraction thereof	275

➔ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, ~~the blank forms to be completed and filed with him,~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list pursuant to subsection 1.* Failure of any corporation to receive ~~the forms~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 10. NRS 80.113 is hereby amended to read as follows:

80.113 1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

- (a) A current list of its owners of record; or
- (b) A statement indicating where such a list is maintained.

2. ~~[(The)]~~ *Upon the request of the Secretary of State, the foreign corporation shall:*

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

- (a) The foreign corporation complies with the requirements of subsection 3; or
- (b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 11. NRS 81.006 is hereby amended to read as follows:

81.006 1. A nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter may correct a record filed with the Secretary of State with respect to the entity if the record contains an inaccurate description of an action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the entity must:

- (a) Prepare a certificate of correction which:
 - (1) States the name of the entity;
 - (2) Describes the record, including, without limitation, its filing date;
 - (3) Specifies the inaccuracy or defect;
 - (4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and
 - (5) Is signed by an officer of the entity or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.
- (b) Deliver the certificate to the Secretary of State for filing.
- (c) Pay a filing fee of \$25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. *If a nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the nonprofit cooperative corporation, cooperative association, charitable organization or other entity may cancel the filing by:*

- (a) *Filing a statement of cancellation with the Secretary of State; and*
- (b) *Paying a fee of \$50.*

Sec. 12. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall maintain at its registered office or principal place of business in this State:

- (a) A current list of its owners of record; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ Upon the request of the Secretary of State, the corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

- (a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or
- (b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

- (a) The corporation complies with the requirements of subsection 3; or
- (b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign nonprofit corporation;
- (b) The file number of the foreign nonprofit corporation, if known;
- (c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;
- (d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of \$25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, ~~cause to be mailed~~ provide to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, ~~the blank forms to be completed and filed with him,~~ a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign nonprofit corporation to receive ~~the forms~~ a notice does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 14. NRS 82.534 is hereby amended to read as follows:

82.534 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

- (a) Prepare a certificate of correction which:
 - (1) States the name of the corporation;
 - (2) Describes the record, including, without limitation, its filing date;
 - (3) Specifies the inaccuracy or defect;
 - (4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of \$25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. *If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:*

(a) *Filing a statement of cancellation with the Secretary of State; and*

(b) *Paying a fee of \$50.*

Sec. 15. (Deleted by amendment.)

Sec. 15.5. Chapter 84 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, no new corporation sole may be formed in this State on or after the effective date of section 56 of this act. A corporation sole formed pursuant to this chapter before the effective date of section 56 of this act may continue in existence until the corporation is dissolved or its charter is revoked. A corporation sole that has its charter revoked pursuant to NRS 84.140 may be reinstated as provided in NRS 84.150.

2. Until July 1, 2011, an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may form a new corporation sole if such person:

(a) Is affiliated with and subordinate to the authority of a superior corporation sole which is in good standing under the laws of this State; and

(b) Provides a statement, executed under penalty of perjury, by the presiding officer of the superior corporation sole attesting to the affiliation and stating the name of the superior corporation sole, the name and title of the presiding officer of the superior corporation sole and the nature of the affiliation between the superior corporation sole and the subordinate corporation sole.

Sec. 16. NRS 84.009 is hereby amended to read as follows:

84.009 1. A corporation sole may correct a record filed with the Office of the Secretary of State with respect to the corporation sole if the record contains an inaccurate description of an action of the corporation sole or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation sole must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation sole;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent or other presiding officer or clergyman of a church, religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church, religious society or denomination, and in whom is vested the legal title to the property held for the purpose, use or benefit of the church or religious society or denomination.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of \$25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation sole has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation sole may cancel the filing by:

- (a) Filing a statement of cancellation with the Secretary of State; and
- (b) Paying a fee of \$50.

Sec. 16.2. *NRS 84.010 is hereby amended to read as follows:*

84.010 ~~(Corporations)~~ Subject to the provisions of section 15.5 of this act, corporations may be formed for acquiring, holding or disposing of church or religious society property, for the benefit of religion, for works of charity, and for public worship, in the manner provided in this chapter.

Sec. 16.4. *NRS 84.010 is hereby amended to read as follows:*

84.010 ~~(Subject to the provisions of section 15.5 of this act, corporations may be formed for acquiring, holding or disposing.)~~ The purpose of a corporation sole is to acquire, hold or dispose of church or religious society property, for the benefit of religion, for works of charity, and for public worship, in the manner provided in this chapter.

Sec. 16.6. *NRS 84.020 is hereby amended to read as follows:*

84.020 ~~(An)~~ Subject to the provisions of section 15.5 of this act, an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may make and sign written articles of incorporation ~~(or amended articles of incorporation)~~, in duplicate, and file one copy of the articles ~~or amended articles~~ in the Office of the Secretary of State and retain possession of the other.

Sec. 16.8. *NRS 84.020 is hereby amended to read as follows:*

84.020 ~~(Subject to the provisions of section 15.5 of this act, an)~~ An archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may ~~(make and sign written articles of incorporation or amended)~~ amend articles of incorporation, in ~~(duplicate)~~ writing, and file one copy of the ~~(articles or)~~ amended articles in the Office of the Secretary of State and retain possession of the other.

Sec. 17. NRS 86.246 is hereby amended to read as follows:

86.246 1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:

- (a) A current list of each member and manager; or
- (b) A statement indicating where such a list is maintained.

2. ~~(A)~~ Upon the request of the Secretary of State, the limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

- (a) The limited-liability company complies with the requirements of subsection 3; or
- (b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the limited-liability company;
- (b) The file number of the limited-liability company, if known;
- (c) The names and titles of all of its managers or, if there is no manager, all of its managing members;
- (d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

- (a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of \$125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, ~~cause to be mailed~~ provide to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file ~~for~~ the list required by subsection 2. Failure of any company to receive a notice ~~for form~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this

State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

- (a) The name of the foreign limited-liability company;
- (b) The file number of the foreign limited-liability company, if known;
- (c) The names and titles of all its managers or, if there is no manager, all its managing members;
- (d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

- (a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, ~~cause to be mailed~~ *provide* to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, ~~the blank forms to be completed and filed with him~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign limited-liability company to receive the forms a notice* does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 21. NRS 86.54615 is hereby amended to read as follows:

86.54615 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

- (a) A current list of each member and manager; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ *Upon the request of the Secretary of State, the* foreign limited-liability company shall:

- (a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

- (a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

- (a) The foreign limited-liability company complies with the requirements of subsection 3; or
- (b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. NRS 86.568 is hereby amended to read as follows:

86.568 1. A limited-liability company may correct a record filed in the Office of the Secretary of State with respect to the limited-liability company if the record contains an inaccurate description of a company action or was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited-liability company must:

- (a) Prepare a certificate of correction that:
 - (1) States the name of the limited-liability company;
 - (2) Describes the record, including, without limitation, its filing date;
 - (3) Specifies the inaccuracy or defect;
 - (4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and
 - (5) Is signed by a manager of the company or, if management is not vested in a manager, by a member of the company.
- (b) Deliver the certificate to the Secretary of State for filing.
- (c) Pay a filing fee of \$175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. *If a limited-liability company has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited-liability company may cancel the filing by:*

- (a) *Filing a statement of cancellation with the Secretary of State; and*
- (b) *Paying a fee of \$50.*

Sec. 23. NRS 87.480 is hereby amended to read as follows:

87.480 A registered limited-liability partnership must have a registered agent who resides or is located in this State. A registered agent must have a street address for the service of process that is the principal office of the registered limited-liability ~~(company)~~ partnership in this State, and may have a separate mailing address that is different from his street address.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the registered limited-liability partnership;
- (b) The file number of the registered limited-liability partnership, if known;
- (c) The names of all of its managing partners;
- (d) The address, either residence or business, of each managing partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➤ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of

NRS 360.780, an acknowledgment that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice ~~for form~~ does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.515 is hereby amended to read as follows:

87.515 1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~The~~ *Upon the request of the Secretary of State, the* registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 26. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification

to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign registered limited-liability partnership;
- (b) The file number of the foreign registered limited-liability partnership, if known;
- (c) The names of all its managing partners;
- (d) The address, either residence or business, of each managing partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ provide to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, ~~the blank forms to be completed and filed with him,~~ a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1. Failure of any foreign registered limited-liability partnership to receive ~~the forms~~ a notice does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 27. NRS 87.5413 is hereby amended to read as follows:

87.5413 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

- (a) A current list of its managing partners; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ Upon the request of the Secretary of State, the foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4 and NRS 87.5413, the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State ~~the~~ :

(1) The list required by NRS 87.541; and

(2) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 29. NRS 87.547 is hereby amended to read as follows:

87.547 1. A registered limited-liability partnership may correct a record filed in the Office of the Secretary of State with respect to the registered limited-liability partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the registered limited-liability partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the registered limited-liability partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

- (5) Is signed by a managing partner of the registered limited-liability partnership.
- (b) Deliver the certificate to the Secretary of State for filing.
- (c) Pay a filing fee of \$175 to the Secretary of State.
- 3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.
- 4. *If a registered limited-liability partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the registered limited-liability partnership may cancel the filing by:*
 - (a) *Filing a statement of cancellation with the Secretary of State; and*
 - (b) *Paying a fee of \$50.*
- Sec. 30. NRS 87A.200 is hereby amended to read as follows:
 87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State:
 - (a) A current list of each general partner; or
 - (b) A statement indicating where such a list is maintained.
- 2. ~~The~~ Upon the request of the Secretary of State, the limited partnership shall:
 - (a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.
 - (b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.
- 3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:
 - (a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or
 - (b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.
- 4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.
- 5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:
 - (a) The limited partnership complies with the requirements of subsection 3; or
 - (b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.
- 6. The Secretary of State may adopt regulations to administer the provisions of this section.
- Sec. 31. NRS 87A.275 is hereby amended to read as follows:
 87A.275 1. A limited partnership or foreign limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership or foreign limited partnership if the record contains false or erroneous information or if the record was defectively signed, attested, sealed, verified or acknowledged.
- 2. To correct a record, the limited partnership or foreign limited partnership must:
 - (a) Prepare a certificate of correction that:
 - (1) States the name of the limited partnership or foreign limited partnership;
 - (2) Describes the record, including, without limitation, its filing date;
 - (3) Specifies the false or erroneous information or the defect;
 - (4) Sets forth the false or erroneous information or the defective portion of the record in an accurate or corrected form; and
 - (5) Is signed by a general partner of the limited partnership or foreign limited partnership.
 - (b) Deliver the certificate to the Secretary of State for filing.
 - (c) Pay a filing fee of \$175 to the Secretary of State.
- 3. A certificate of correction must not state a delayed effective date and is effective on the effective date of the record it corrects, except that the certificate is effective when filed:
 - (a) For the purposes of subsections 3 and 4 of NRS 87A.150; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

4. *If a limited partnership or foreign limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership or foreign limited partnership may cancel the filing by:*

- (a) *Filing a statement of cancellation with the Secretary of State; and*
- (b) *Paying a fee of \$50.*

Sec. 32. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the limited partnership;
- (b) The file number of the limited partnership, if known;
- (c) The names of all of its general partners;
- (d) The address, either residence or business, of each general partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➔ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

- (a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

3. A registered limited-liability limited partnership shall, upon filing:

- (a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~to~~ *required pursuant to subsection 1*. Failure of any limited partnership to receive a notice ~~for form~~ does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day

of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign limited partnership;
- (b) The file number of the foreign limited partnership, if known;
- (c) The names of all its general partners;
- (d) The address, either residence or business, of each general partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330 , it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.* Failure of any foreign limited partnership to receive ~~(the forms)~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 35. NRS 87A.580 is hereby amended to read as follows:

87A.580 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

- (a) A current list of each general partner; or
- (b) A statement indicating where such a list is maintained.

2. ~~[The]~~ *Upon the request of the Secretary of State, the foreign limited partnership shall:*

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation,

the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36. NRS 87A.630 is hereby amended to read as follows:

87A.630 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. *A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.*

5. The registration of a registered limited-liability limited partnership is effective on the later of the filing of the certificate of registration or a date specified in the certificate of registration.

Sec. 37. NRS 87A.640 is hereby amended to read as follows:

87A.640 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~The~~ *Upon the request of the Secretary of State, the registered limited-liability limited partnership shall:*

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 38. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[(The)]~~ Upon the request of the Secretary of State, the limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. NRS 88.339 is hereby amended to read as follows:

88.339 1. A limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of \$175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) *Paying a fee of \$50.*

Sec. 40. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the limited partnership;
- (b) The file number of the limited partnership, if known;
- (c) The names of all of its general partners;
- (d) The address, either residence or business, of each general partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➤ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

- (a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

3. A registered limited-liability limited partnership shall, upon filing:

- (a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~that~~ *required pursuant to subsection 1*. Failure of any limited partnership to receive a notice ~~for form~~ does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 41. (Deleted by amendment.)

Sec. 42. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign limited partnership;
- (b) The file number of the foreign limited partnership, if known;
- (c) The names of all its general partners;
- (d) The address, either residence or business, of each general partner;
- (e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, ~~the blank forms to be completed and filed with him,~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.* Failure of any foreign limited partnership to receive ~~the forms~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 43. NRS 88.5927 is hereby amended to read as follows:

88.5927 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

- (a) A current list of each general partner; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ *Upon the request of the Secretary of State, the* foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

- (a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 88.606 is hereby amended to read as follows:

88.606 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

- (a) The name of the limited partnership.
- (b) The street address of its principal office.
- (c) The information required pursuant to NRS 77.310.
- (d) The name and business address of each organizer signing the certificate.
- (e) The name and business address of each initial general partner.
- (f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. *A partnership may register as a registered limited-liability limited partnership at the time of filing its certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees required pursuant to subsections 1 and 2 of NRS 88.415.*

5. The registration of a registered limited-liability limited partnership is effective at the time of the filing of the certificate of registration.

Sec. 45. NRS 88.6067 is hereby amended to read as follows:

88.6067 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

- (a) A current list of each general partner; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ Upon the request of the Secretary of State, the registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 46. NRS 88A.345 is hereby amended to read as follows:

88A.345 1. ~~[A]~~ Upon the request of the Secretary of State, a business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 47. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~(cause to be mailed)~~ provide to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, ~~(the blank forms to be completed and filed with him.)~~ a notice of the fee due pursuant to subsection 2 and a reminder to file the list required pursuant to subsection 1. Failure of a business trust to receive ~~(the forms)~~ a notice does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 48. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign business trust;
- (b) The file number of the foreign business trust, if known;
- (c) The name of at least one of its trustees;
- (d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

- (a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~cause to be mailed~~ *provide* to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, ~~the blank forms to be completed and filed with him.~~ *a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.* Failure of any foreign business trust to receive ~~the forms~~ *a notice* does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 49. NRS 88A.7345 is hereby amended to read as follows:

88A.7345 1. A foreign business trust shall maintain at its registered office:

- (a) A current list of its beneficial owners; or
- (b) A statement indicating where such a list is maintained.

2. ~~The~~ *Upon the request of the Secretary of State, the* foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

- (a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or
- (b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 50. NRS 88A.930 is hereby amended to read as follows:

88A.930 1. A business trust may correct a record filed in the Office of the Secretary of State with respect to the business trust if the record contains an inaccurate description of a trust action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the business trust must:

(a) Prepare a certificate of correction that:

(1) States the name of the business trust;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a trustee of the business trust.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of \$175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. *If a business trust has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the business trust may cancel the filing by:*

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of \$50.

Sec. 51. NRS 89.045 is hereby amended to read as follows:

89.045 1. A professional entity shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~(The)~~ Upon the request of the Secretary of State, the professional entity shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional entity to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional entity fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional entity complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 89.251 is hereby amended to read as follows:

89.251 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. ~~[(The)]~~ Upon the request of the Secretary of State, the professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 53. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. *Filing a statement of cancellation with the Secretary of State; and*

2. *Paying a fee of \$50.*

Sec. 53.5. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; ~~and~~

(3) The information required pursuant to NRS 77.310 ~~+~~;

(4) *A certified copy of the charter document of the undomesticated organization; and*

(5) *A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).*

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created ~~+~~ and, if applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law ~~to~~ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. *The owner liability of an undomesticated organization that is domesticated in this State:*

(a) *Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;*

(b) *Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;*

(c) *Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);*

(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and

(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.

10. As used in this section ~~["undomesticated"]~~ :

(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the organization, including the responsibility to make additional capital contributions to cover such debts.

(b) "Undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than ~~[the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.]~~ this State.

Sec. 54. ~~[NRS 360.765 is hereby amended to read as follows:]~~

~~360.765 1. Except as otherwise provided in subsection 2, "business" means:~~

~~(a) Any person, except a natural person, that performs a service or engages in a trade for profit [or]~~

~~(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity [.] ; or~~

~~(c) Any entity organized pursuant to title 7 of NRS, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.~~

~~2. The term does not include:~~

~~(a) A governmental entity;~~

~~(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax exempt organization pursuant to 26 U.S.C. § 501(c);~~

~~(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars;~~

~~(d) A natural person whose sole business is the rental of four or fewer dwelling units to others;~~

~~(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020;~~

~~(f) A business organized pursuant to chapters 92 or 81 of NRS. (Deleted by amendment.)~~

Sec. 55. ~~[NRS 360.780 is hereby amended to read as follows:]~~

~~360.780 1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.~~

~~2. An application for a state business license must:~~

~~(a) Be made upon a form prescribed by the Department;~~

~~(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the exact name on file with the Secretary of State, and the location in this State of his place or places of business;~~

~~(c) Be accompanied by a fee of \$100; and~~

~~(d) Include any other information that the Department deems necessary.~~
~~If the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.~~

~~3. The application must be signed by:~~

~~(a) The owner, if the business is owned by a natural person;~~

~~(b) A member or partner, if the business is owned by an association or partnership; or~~

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 260.760 to 260.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

~~(b) Has an office or other base of operations in this State; [or]~~

~~(c) Has a registered agent in this State; or~~

~~(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.~~

~~7. A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 260.787.~~

~~8. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230. (Deleted by amendment.)~~

~~Sec. 55.5. NRS 84.006 is hereby repealed.~~

~~Sec. 56. 1. This ~~act becomes~~ section and sections 15.5, 16.2, 16.6 and 55.5 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 14, inclusive, 16 and 17 to 53.5, inclusive, of this act become effective on July 1, 2009.~~

~~3. Sections 16.4 and 16.8 of this act become effective on July 1, 2011.~~

~~4. Sections 16.2 and 16.6 of this act expire by limitation on June 30, 2011.~~

~~TEXT OF REPEALED SECTION~~

~~84.006 "Street address" defined. "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.~~

TERRY CARE

ALLISON COPENING

Senate Conference Committee

BERNIE ANDERSON

RICHARD MCARTHUR

Assembly Conference Committee

Senator Care moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 55.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 68, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 626 and 877 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 17, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Establishes responsibility for the maintenance of certain security walls within certain common-interest communities. (BDR 10-281)"

"AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community. ~~It~~ unless the governing documents provide otherwise. Section 2 of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201) Section 6 of this bill provides that if a common-interest community was created before October 1, 2009, the requirements of the bill do not apply to the common-interest community until January 1, 2013. ~~It~~ unless the governing documents provide that the association is responsible for the maintenance, repair, restoration and replacement of the security wall.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2 and NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.*

2. *The provisions of this section do not apply if the governing documents provide that a unit's owner or an entity other than the association is responsible for the maintenance, repair, restoration and replacement of the security wall.*

3. *For the purpose of carrying out the maintenance, repair, restoration and replacement of a security wall pursuant to this section:*

(a) The association, the members of its executive board and its officers, employees, agents and community manager may enter the grounds of a unit after providing written notice and, notwithstanding any other provision of law, are not liable for trespass.

(b) Any such maintenance, repair, restoration and replacement of a security wall must be performed:

(1) During normal business hours;

(2) Within a reasonable length of time; and

(3) In a manner that does not adversely affect access to a unit or the legal rights of a unit's owner to enjoy the use of his unit.

(c) Notwithstanding any other provision of law, the executive board is prohibited from imposing an assessment without obtaining prior approval of the units' owners unless the total amount of the assessment is less than 5 percent of the annual budget of the association.

4. *As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.*

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~and~~

(II) *Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and*

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Notwithstanding the amendatory provisions of this act, if a common-interest community was created before October 1, 2009, the amendatory provisions of this act do not apply to the common-interest community until January 1, 2013 ~~or, unless the governing documents provide that the association is responsible for the maintenance, repair, restoration and replacement of the security wall.~~

TERRY CARE

MARILYN DONDERO LOOP

VALERIE WIENER

RUBEN J. KIHUEN

Senate Conference Committee

RICHARD MCARTHUR

Assembly Conference Committee

Senator Care moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 68.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 332, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 745 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 16, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing the use and taxation of ~~alternative~~ certain fuels ~~and clean vehicles~~ (BDR 43-1147)"

"AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; *providing for the taxation of ethanol and methanol as motor vehicle fuels and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) Section 4 revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) Section 5 revises the definition of "fleet" to limit the applicability of sections 1-11 to a fleet of 50 or more motor vehicles which are registered in the same county and which are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) Section 6 excludes certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of sections 1-11. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use alternative fuels by persons who are not subject to the requirements of sections 1-11 of this bill. (NRS 486A.200)

Existing law provides for the taxation of certain motor vehicle fuels, including gasoline. (NRS 365.060, 365.175-365.192) Section 20 of this bill includes ethanol and methanol within the definition of "motor vehicle fuel" and thereby requires ethanol and methanol to be taxed in the same manner and at the same rate as gasoline. In addition, the inclusion of ethanol and methanol as motor vehicle fuels will subject dealers, suppliers, exporters and transporters of ethanol and methanol to the same requirements and penalties currently applicable to dealers,

suppliers, exporters and transporters of gasoline, including, without limitation, requirements concerning licensing, bonding, recordkeeping and the collection and payment of taxes. (NRS 365.270, 365.290, 365.322, 365.324, 365.330, 365.500-365.530, 365.570-365.605) Sections 17 and 18 of this bill authorize the Department of Motor Vehicles to take certain administrative action against a person licensed pursuant to chapter 365 of NRS or a person who acts as a motor vehicle fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances.

Existing law provides for the taxation of certain special fuels for motor vehicles, including any combustible gas or liquid other than the fuels which are taxed as motor vehicle fuels pursuant to chapter 365 of NRS, and any emulsion of water-phased hydrocarbon fuel used in a motor vehicle. (NRS 366.060, 366.190, 366.195) Sections 23, 24 and 29 of this bill provide for the taxation of biodiesel and blends of biodiesel and a petroleum-based product as special fuels.

Section 25 of this bill defines a "special fuel manufacturer" as a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State. Section 30 of this bill exempts a special fuel manufacturer from regulation as a special fuel supplier. Section 33 of this bill prohibits a person from acting as a special fuel manufacturer without first obtaining a license from the Department of Motor Vehicles. The Department is authorized to adopt regulations relating to the issuance of a license to a special fuel manufacturer and to collect fees for the issuance of such a license.

Sections 40 and 41 of this bill require a special fuel manufacturer to file tax returns with the Department in the same manner as a special fuel dealer. Section 42 of this bill requires a special fuel manufacturer to pay the taxes on special fuels imposed by chapter 366 of NRS. Section 26 of this bill requires a special fuel manufacturer to submit certain monthly reports to the Department. Section 36 of this bill provides that the Department must require a special fuel manufacturer who is habitually delinquent in the payment of special fuel taxes to execute a bond payable to the State in an amount of not less than \$2,500. Section 43 of this bill requires a special fuel manufacturer to keep certain records as required by the Department.

Sections 27 and 46 of this bill authorize the Department to take certain administrative action against a person licensed pursuant to chapter 366 of NRS or a person who acts as special fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances. A special fuel manufacturer or any other person who makes a false or fraudulent report with the intent to evade the taxes imposed pursuant to chapter 366 of NRS is guilty of a gross misdemeanor. (NRS 366.710) A special fuel manufacturer who violates any other provision of chapter 366 of NRS as amended by this bill is guilty of a misdemeanor. (NRS 366.720, 366.730)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

"Clean vehicle" means any motor vehicle which complies with the specifications for clean vehicles established by the Commission.

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~[Protection of the] The State's environment, particularly the quality of its air, [requires a reduction.] (enact) may be improved, especially in metropolitan areas, [of the contaminants resulting from the combustion of conventional fuels in motor] through the use of alternative fuels and clean vehicles.~~

2. A very large proportion of ~~[these] air contaminants [results]~~ result from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~[-~~

3. ~~Conversion of these fleets to use cleaner burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor], and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.~~

3. *Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.*

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements *for alternative fuel* established by the Commission. ~~The term includes:~~

1. ~~Reformulated gasoline; and~~

2. ~~Finished diesel fuel that:~~

(a) ~~Meets ASTM International specification D975; and~~

(b) ~~Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751;~~

~~which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.] The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410.~~

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~10~~ 50 or more motor vehicles ~~that~~ which are registered in the same county and which are under the common control of and owned, leased or operated by ~~the State or a local governing body. The term includes fleets that are used by the State,~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. Farm tractor as defined in NRS 482.035;

2. Moped as defined in NRS 482.069; ~~and~~

3. Motorcycle as defined in NRS 482.070 ~~;~~ and

4. *Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers.*

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.

2. Any governmental agency exempted by federal statute or regulation.

3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act*, including, ~~(but not limited to,)~~ without limitation, regulations concerning:

1. Standards and requirements for alternative fuel. ~~The Commission shall~~ *In establishing standards and requirements for alternative fuel, the Commission:*

(a) *Must consider fuels that are recognized by the Environmental Protection Agency, ~~and~~ and the Department of Energy ~~and the California Air Resources Board~~ to improve air quality or reduce harmful air emissions.*

(b) *Shall not discriminate against any product that is petroleum based.*

2. *Specifications for clean vehicles and motor vehicles that use alternative fuels. To the extent practicable and appropriate, the specifications established by the Commission must be consistent with the specifications established by the Environmental Protection Agency, ~~and~~ and*

the Department of Energy ~~and the California Air Resources Board~~ for the vehicle category and year of manufacture.

3. The ~~conversion of fleets to use alternative fuels if the~~ acquisition of clean vehicles and motor vehicles that use alternative fuels by a fleet that is operated in a county whose population is 100,000 or more ~~;~~

~~3. Standards for alternative fuel injection systems for diesel motor vehicles.~~, including, without limitation, recordkeeping and reporting requirements concerning such vehicles.

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving *variances or* exemptions to the requirements of NRS 486A.010 to 486A.180, inclusive ~~;~~

~~6. Standards related to the use of dedicated alternative fuel motor vehicles.~~, and section 1 of this act. The Commission may approve a variance or exemption based upon:

(a) A determination by the Commission that compliance with the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act:

(1) Would void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;

(2) Would result in financial hardship to the owner or operator of a fleet; or

(3) Is impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or

(b) Any other reason which the Commission determines is appropriate.

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

(a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~;~~, and section 1 of this act;

(b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~;~~, and section 1 of this act; and

(c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~;~~, and section 1 of this act.

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~10 or more~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act and any regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~10 or more~~ motor vehicles shall not:

(a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than \$1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act or any regulation ~~in force~~ adopted pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act and any regulations ~~in force~~

adopted pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

4. A person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to a person found by the court to be indigent.

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, and section 1 of this act to ~~use clean burning fuel in motor vehicles.~~ *acquire clean vehicles and motor vehicles that use alternative fuels.* The program may include, without limitation, a method of educating the members of the general public concerning:

(a) The program administered by the Department; and

(b) The benefits of using ~~clean burning fuel in~~ *clean vehicles and motor vehicles* ~~that~~ *use alternative fuels.*

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. § 490.2.]~~ *"Clean vehicle" has the meaning ascribed to it in section 1 of this act.*

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. (Deleted by amendment.)

Sec. 14. Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 18, inclusive, of this act.

Sec. 15. "Ethanol" means denatured ethyl alcohol produced for use as a fuel.

Sec. 16. "Methanol" means anhydrous methyl alcohol produced for use as a fuel.

Sec. 17. 1. The Department may take disciplinary action in accordance with subsection 2 against any person who, below the terminal rack:

(a) Sells or stores for personal consumption any motor vehicle fuel for a use which the person selling or storing the fuel knows, or has reason to know, is a taxable use of the fuel and does not report and pay the applicable tax to the Department;

(b) Willfully alters the volume or composition of any motor vehicle fuel which is intended for a taxable use and does not report and pay the applicable tax to the Department; or

(c) Sells motor vehicle fuel which the person selling the fuel knows, or has reason to know, is formulated in a manner that violates any provision of state or federal law governing standards for the formulation of motor vehicle fuel.

2. For any violation described in subsection 1, the Department may:

(a) For a first violation within 4 years, impose an administrative fine of not more than \$2,500 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 30 days;

(b) For a second violation within 4 years, impose an administrative fine of not more than \$5,000 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 60 days; and

(c) For a third or subsequent violation within 4 years, impose an administrative fine of not more than \$10,000 and revoke any license issued to the person pursuant to the provisions of this chapter.

Sec. 18. 1. If the Department determines through an audit that a retailer has sold motor vehicle fuel which substantially exceeds the ethanol tolerance for motor vehicle fuel prescribed by federal law, the Department may:

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than \$1,000 on the retailer and the supplier of the motor vehicle fuel. The total fines imposed on a person pursuant to this paragraph must not exceed \$100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than \$2,500 on the retailer and the supplier of the motor vehicle fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed \$250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than \$5,000 on the retailer and the supplier of the motor vehicle fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed \$500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a motor vehicle fuel contains a concentration of alcohol or is formulated in a manner which exceeds the standards for the formulation of motor vehicle fuel established by federal law in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of motor vehicle fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 19. NRS 365.010 is hereby amended to read as follows:

365.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 365.015 to 365.092, inclusive, *and sections 15 and 16 of this act* have the meanings ascribed to them in those sections.

Sec. 20. NRS 365.060 is hereby amended to read as follows:

365.060 "Motor vehicle fuel" means gasoline, natural gasoline, casing-head gasoline, ~~methanol, ethanol~~ or any other inflammable or combustible liquid, regardless of the name by which the liquid is known or sold, the chief use of which in this State is for the propulsion of motor vehicles, motorboats or aircraft other than jet or turbine-powered aircraft. The term does not include kerosene, gas oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel, ~~biodiesel, biodiesel blend~~, liquefied petroleum gas and an emulsion of water-phased hydrocarbon fuel, as that term is defined in NRS 366.026.

Sec. 21. NRS 365.600 is hereby amended to read as follows:

365.600 1. ~~(The)~~ *Except as otherwise provided in sections 17 and 18 of this act, the* Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. ~~The~~ *The Department shall afford to any person ~~not~~ fined pursuant to this section or section 17 or 18 of this act* an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

~~(2)~~ 3. All administrative fines collected by the Department pursuant to subsection 1 *or section 17 or 18 of this act* must be deposited with the State Treasurer to the credit of the State Highway Fund.

~~(3)~~ 4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 22. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to 27, inclusive, of this act.

Sec. 23. "Biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.

Sec. 24. "Biodiesel blend" means a blend of biodiesel and a petroleum-based product suitable for use as a fuel in a motor vehicle.

Sec. 25. "Special fuel manufacturer" means a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State.

Sec. 26. Each special fuel manufacturer shall, not later than the last day of each month, submit to the Department a written report which sets forth:

1. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded in this State;

2. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded for personal use in this State;

3. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or delivered in this State;

4. The name and mailing address of each person to whom the special fuel manufacturer sold or delivered special fuel containing biodiesel or biodiesel blend in this State; and

5. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or distributed to each person described in subsection 4.

Sec. 27. 1. If the Department determines through an audit that a retailer has sold special fuel containing biodiesel or biodiesel blend which substantially exceeds the biodiesel tolerance for the biodiesel blend posted by the retailer, the Department may:

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than \$1,000 on the retailer and the supplier of the special fuel. The total fines imposed on a person pursuant to this paragraph must not exceed \$100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than \$2,500 on the retailer and the supplier of the special fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed \$250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than \$5,000 on the retailer and the supplier of the special fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed \$500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a special fuel contains a biodiesel blend which exceeds the total volume displayed on the special fuel pump in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of special fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 28. NRS 366.020 is hereby amended to read as follows:

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.025 to 366.100, inclusive, and sections 23, 24 and 25 of this act have the meanings ascribed to them in those sections.

Sec. 29. NRS 366.060 is hereby amended to read as follows:

366.060 "Special fuel" means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including , without limitation, biodiesel, biodiesel blend and an emulsion of water-phased hydrocarbon fuel. The term does not include motor vehicle fuel as defined in chapter 365 of NRS.

Sec. 30. NRS 366.070 is hereby amended to read as follows:

366.070 1. "Special fuel supplier" means a person who:

~~1.1~~ (a) Imports or acquires immediately upon importation into this State special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

~~(b)~~ (b) Produces, manufactures or refines special fuel in this State; or
~~(c)~~ (c) Otherwise acquires for distribution in this State special fuel with respect to which there has been no previous taxable sale or use.

2. The term does not include a special fuel manufacturer.

Sec. 31. NRS 366.150 is hereby amended to read as follows:

366.150 1. The Department or its authorized agents may:

(a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user, special fuel manufacturer or any other person transporting or storing special fuel;

(b) Investigate the character of the disposition which any person makes of special fuel; and

(c) Stop and inspect a motor vehicle that is using or transporting special fuel,
 ↳ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.

3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~special fuel user~~ or special fuel manufacturer wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~special fuel user~~ or special fuel manufacturer in any year.

4. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~special fuel user~~ or special fuel manufacturer shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.

Sec. 32. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed, ~~and~~ and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~special fuel user~~ or special fuel manufacturer, and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~special fuel user~~ or special fuel manufacturer, shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by NRS 239.0115 or by any other law.

Sec. 33. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter:

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter, ~~special fuel user~~ or special fuel manufacturer, a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter, ~~special fuel transporter~~ or special fuel manufacturer or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

(6) A special fuel manufacturer without holding a license as a special fuel manufacturer pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any license pursuant to this chapter and the collection of fees therefor.

Sec. 34. NRS 366.221 is hereby amended to read as follows:

366.221 1. Except as otherwise provided in subsection 2, a special fuel user's license is not required of the following classes of special fuel users:

(a) Operators of motor vehicles who make occasional trips into this State for service or repair.

(b) Operators of house coaches as defined in NRS 484.067.

(c) Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

(d) Operators of unladen motor vehicles purchased in this State for the trip from the point of delivery to the state boundary.

(e) Operators of motor vehicles who make occasional trips into or across this State for nonprofit or eleemosynary purposes.

(f) Operators of motor vehicles which are operated exclusively within this State.

2. A person otherwise exempt pursuant to subsection 1 who does not purchase special fuel in this State in an amount commensurate with his consumption of special fuel in the propulsion of motor vehicles on the highways of this State shall secure a special fuel user's license.

Sec. 35. NRS 366.223 is hereby amended to read as follows:

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering ~~the State or immediately upon entering~~ the State. The fee for a temporary permit for special fuel is \$30 and is not refundable.

2. Except as otherwise provided in subsection 3, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

3. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

4. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 36. NRS 366.235 is hereby amended to read as follows:

366.235 1. An applicant for or holder of a license as a special fuel supplier or special fuel dealer shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond or bonds of any holder of such a license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than \$1,000 for a special fuel supplier and must not be less than \$100 for a special fuel dealer. If a special fuel supplier or special fuel dealer is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department may increase the amount of his security to not more than five times the estimated maximum

monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100.

2. If a special fuel user *or special fuel manufacturer* is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user *or special fuel manufacturer* to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than \$2,500.

3. No recovery on any bond, execution of any new bond or suspension or revocation of any license as a special fuel supplier, special fuel dealer, ~~or~~ special fuel user *or special fuel manufacturer* affects the validity of any bond.

4. In lieu of a bond or bonds, an applicant for or holder of a license as a special fuel supplier or special fuel dealer, or a person required to provide a bond pursuant to subsection 2, may deposit with the State Treasurer, under such terms as the Department may prescribe, an equivalent amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

5. If the holder of a license as a special fuel supplier or special fuel dealer is required to provide a bond of more than \$5,000, the Department may reduce the requirements for the bond to not less than \$5,000 upon the faithful performance of the special fuel supplier or special fuel dealer of all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

6. The Department shall immediately reinstate the original requirements for a bond for a holder of a license as a special fuel supplier or special fuel dealer upon his:

- (a) Lack of faithful performance of the requirements of this chapter; or
- (b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12 month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 37. NRS 366.240 is hereby amended to read as follows:

366.240 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel supplier's or special fuel dealer's license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel exporter's, special fuel transporter's, ~~or~~ special fuel user's *or special fuel manufacturer's* license.

2. The Department may refuse to issue a license pursuant to this section to any person:

(a) Who formerly held a license issued pursuant to this chapter or a similar license of any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country which, before the time of filing the application, has been revoked for cause;

(b) Who applies as a subterfuge for the real party in interest whose license, before the time of filing the application, has been revoked for cause;

(c) Who, if he is a special fuel supplier or special fuel dealer, neglects or refuses to furnish a bond as required by this chapter;

(d) Who is in default in the payment of a tax on special fuel in this State, any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country;

(e) Who has failed to comply with any provision of this chapter; or

(f) Upon other sufficient cause being shown.

Sec. 38. NRS 366.250 is hereby amended to read as follows:

366.250 Any applicant whose application for a special fuel supplier's license, special fuel dealer's license, special fuel exporter's license, special fuel transporter's license, ~~for~~ special fuel user's license or special fuel manufacturer's license has been denied may petition the Department for a hearing. The Department shall:

1. Grant the applicant a hearing.

2. Provide to the applicant, not less than 10 days before the hearing, written notice of the time and place of the hearing.

Sec. 39. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~for~~ special fuel user or special fuel manufacturer within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user registered under the Interstate Highway User Fee Apportionment Act, file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer ~~for~~ or special fuel manufacturer, file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

Sec. 40. NRS 366.370 is hereby amended to read as follows:

366.370 1. Except as otherwise provided in this chapter, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. A special fuel supplier shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.383.

5. A special fuel dealer or special fuel manufacturer shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.386.

Sec. 41. NRS 366.386 is hereby amended to read as follows:

366.386 1. On or before the last day of the month following each reporting period, a special fuel dealer or special fuel manufacturer shall file with the Department a tax return for the

preceding reporting period, regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of this chapter; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. Except as otherwise provided in this subsection, the reporting period for a special fuel dealer *or special fuel manufacturer* is a calendar month. Upon application by a special fuel dealer ~~or~~ *or special fuel manufacturer*, the Department may assign to the special fuel dealer *or special fuel manufacturer* for a specific calendar year:

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer *or special fuel manufacturer* for the preceding calendar year, that the special fuel dealer *or special fuel manufacturer* will sell not more than 200 gallons of special fuel in this State each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer *or special fuel manufacturer* for the preceding calendar year, that the special fuel dealer *or special fuel manufacturer* will sell more than 200 gallons but not more than 500 gallons of special fuel in this State each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer *or special fuel manufacturer* for the preceding calendar year, that the special fuel dealer *or special fuel manufacturer* will sell more than 500 gallons but less than 5,000 gallons of special fuel in this State each calendar month during those reporting periods.

Sec. 42. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers, ~~and~~ special fuel users ~~and~~ *special fuel manufacturers*. A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him. *The tax paid by a special fuel manufacturer must be computed by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel that the special fuel manufacturer places into or sells for placement into the supply tank of a motor vehicle in this State.*

2. If the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier, special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier, special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.

3. A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.

Sec. 43. NRS 366.685 is hereby amended to read as follows:

366.685 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user, *special fuel manufacturer* and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 44. NRS 366.692 is hereby amended to read as follows:

366.692 1. Each special fuel supplier or special fuel manufacturer shall prepare and provide a record of shipment to each person who purchases more than 25 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:

- (a) Place where the special fuel was purchased;
- (b) Place to which the purchaser declares the special fuel will be transported;
- (c) Number of gallons of special fuel transported;
- (d) Color and concentration of the dye added to the special fuel, if any; and
- (e) Name and address of the purchaser of the special fuel.

2. Each person who transports special fuel in this State shall:

- (a) Keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser; and
- (b) Upon request from a peace officer, allow the peace officer to inspect the record of shipment.

Sec. 45. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

- (a) Fails or refuses to pay the tax imposed by this chapter;
 - (b) Engages in business in this State as a special fuel manufacturer, special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;
 - (c) Fails to make any of the reports required by this chapter;
 - (d) Makes any false statement in any application, report or statement required by this chapter;
 - (e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;
 - (f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;
 - (g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;
 - (h) Violates the provisions of NRS 366.265;
 - (i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or
 - (j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,
- is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a special fuel manufacturer, special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 46. NRS 366.735 is hereby amended to read as follows:

366.735 1. The Department may take disciplinary action in accordance with subsection 2 against any person who ~~is~~ is below the terminal rack:

(a) Sells or stores *for personal consumption* any dyed special fuel for a use which the person selling or storing such fuel knows, or has reason to know, is a taxable use of the fuel ~~for~~ *and does not report and pay the applicable tax to the Department;*

(b) Willfully ~~alters or attempts to alter the strength of composition~~ *decreases or attempts to decrease the concentration of any dye in any special fuel intended to be used for a taxable purpose for* ~~for~~ *and does not report and pay the applicable tax to the Department;*

(c) Uses dyed special fuel for a taxable purpose ~~for~~ *and does not report and pay the applicable tax to the Department;*

(d) Willfully increases or attempts to increase the volume of any special fuel intended to be used for a taxable purpose by adding to the fuel any quantity of special fuel for which the tax imposed pursuant to this chapter has not been paid or any quantity of other product for which any tax imposed pursuant to the laws of this State has not been paid; or

(e) Willfully manufactures, sells, distributes for sale or attempts to manufacture, sell or distribute for sale any special fuel intended to be used for a taxable purpose and for which the tax imposed pursuant to this chapter has not been paid.

2. For any violation described in subsection 1, the Department may:

(a) If the violation is a first offense, impose an administrative fine of not more than \$2,500 and suspend any license issued to that person pursuant to this chapter for not more than 30 days;

(b) If the violation is a second offense within a period of 4 years, impose an administrative fine of not more than \$5,000 and suspend any license issued to that person pursuant to this chapter for not more than 60 days; and

(c) If the violation is a third or subsequent offense within a period of 4 years, impose an administrative fine of not more than \$10,000 and revoke any license issued to that person pursuant to this chapter.

Sec. 47. NRS 366.740 is hereby amended to read as follows:

366.740 1. Except as otherwise provided in NRS 366.733 and 366.735 ~~for~~ *and section 27 of this act*, the Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person fined pursuant to this section or NRS 366.733 or 366.735 *or section 27 of this act* an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 or NRS 366.733 or 366.735 *or section 27 of this act* must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

~~Sec. 14.~~ *Sec. 48. 1. NRS 365.072 is hereby repealed.*

2. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

~~Sec. 15.~~ *Sec. 49. 1. This section and sections 14 to 47, inclusive, and subsection 1 of section 48 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2010, for all other purposes.*

2. *Sections 1 to 12, inclusive, and subsection 2 of section 48 of this act (becomes) become effective on July 1, 2009.*

TEXT OF REPEALED SECTIONS

365.072. "Petroleum-ethanol mixture" defined. "Petroleum-ethanol mixture" means a fuel containing a minimum of 10 percent by volume of ethyl alcohol derived from agricultural products.

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or
2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. § 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

SHIRLEY A. BREEDEN

MICHAEL A. SCHNEIDER

DENNIS NOLAN

Senate Conference Committee

ELLEN B. SPIEGEL

MARILYN DONDERO LOOP

PETE J. GOICOECHEA

Assembly Conference Committee

Senator Breeden moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 332.

Remarks by Senators Breeden, Carlton, Schneider and Townsend.

Senator Breeden requested that the following remarks be entered in the Journal.

SENATOR BREEDEN:

This bill governs the use of alternative fuels for clean vehicles. We added information, that provides for the taxation of ethanol and methanol as motor vehicle fuels and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels. We also included making various changes concerning the licensure and regulations of persons who manufacture special fuel.

SENATOR CARLTON:

There is an unintended consequence to this bill. The Chair of the Conference Committee did a good job on this bill, but on page 9, under section 25, there is a definition of a special-fuel manufacturer, and on line 3, it states "for his personal use." We have many people who use the equipment available to take oil and turn it into biodiesel for their own car. With this provision "for his personal use" without a definition of "personal use" everyone who does this on their ranch, farm or home, will end up becoming a special-fuel manufacturer and have to follow all of these reporting and taxation guidelines. I do not believe that the intent of the Conference Committee was to do that. We need to put something on the record as to whom we are really trying to reach.

SENATOR SCHNEIDER:

In Las Vegas, there are what are called "grease buses." Grease from restaurants is running the buses. If they are blending it themselves, then, they should register that is what they are doing. It is a public entity.

There was no discussion on personal use if someone is doing this at home. The intent of the committee and this Legislature is that if you are doing this at home for your own personal use, you will not have to register as a special-fuel manufacturer.

SENATOR TOWNSEND:

The Chair of Commerce and Labor brings up a significant point. I do not want it to go unnoticed. The Chair of Energy, Infrastructure and Transportation has tried to get on the record the appropriate intent, but is it possible to move this to another agenda. Not to delay it, but to make certain that section 25 is clear. We do not want a mistake made on "personal use." We do not want ranchers, farmers and others to be picked up in this when it was intended not to apply.

Senator Schneider moved that Senate Bill No. 332 be taken from Unfinished Business File and placed on Unfinished Business File on the next agenda.

Motion carried.

Mr. President:

The Conference Committee concerning Senate Bill No. 411, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 840 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 24, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing hunting, fishing and trapping. (BDR 45-1177)"

"AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; ~~making it unlawful intentionally to remove, disturb or interfere with the trap of a holder of a trapping license under certain circumstances, providing a penalty;~~ *revising provisions governing certain additional big game tags;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a license, permit or privilege of a person to hunt, fish or trap may be suspended or revoked for wildlife convictions, but not for more than 3 years except in certain circumstances. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of: (1) a gross misdemeanor may not be suspended or revoked for more than 5 years; and (2) a felony may not be suspended or revoked for more than 10 years. (NRS 501.1816) Section 2 of this bill expands the suspension and revocation penalties to require that the license, permit or privilege of a person who has been convicted of two or more felonies pursuant to NRS 501.376 be permanently revoked.

Existing law requires that a person meet certain requirements before he can be issued a resident license, tag or permit pursuant to chapter 502 of NRS. (NRS 502.015) Section 3 of this bill clarifies the language regarding domicile to mean maintaining a principal and permanent residence in this State beyond just owning a home in Nevada.

Existing law prohibits giving a false statement or furnishing false information to obtain any license, tag or permit, making such an action a misdemeanor, or to obtain a big game tag, making such an action a gross misdemeanor. (NRS 502.060) Section 4 of this bill adds a provision that any person who is convicted of giving a false statement or furnishing false information to obtain a license, tag, permit or big game tag forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing.

Existing law requires a person attempting to obtain a license, tag or permit on behalf of another person to have a power of attorney giving him the authority to do so. (NRS 502.061) Section 5 of this bill restricts the requirement to have a power of attorney to only those persons attempting to acquire a license, tag or permit on behalf of another for a fee or other compensation.

~~Existing law makes it unlawful for a person to remove or disturb the trap of a holder of a trapping license while the trap is being used by the trapper on public land or on land where he has permission to trap. (NRS 503.454) If a person commits such a violation, he is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment. (NRS 501.285) Section 6 of this bill revises existing law by making it unlawful for a person intentionally to remove, disturb or interfere with the trap of the holder of the trapping license. Section 6 defines the phrase "interfere with" to mean any act that physically impedes, hinders or obstructs the trap. Sections 6.2-6.8, inclusive, of this bill revise various provisions governing certain additional big game tags to be known as "Dream Tags."~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 501.1814 is hereby amended to read as follows:

501.1814 1. The Commission shall establish and the Department shall administer and enforce a system of assessing demerit points for wildlife convictions. The system must be uniform in its operation.

2. Pursuant to the schedule of demerit points established by regulation of the Commission for each wildlife conviction occurring within this State affecting any holder of a license, permit or privilege issued pursuant to this title, the Department shall assess demerit points for the 60-month period preceding a person's most recent wildlife conviction. Sixty months after the date of the conviction, the demerit points for that conviction must be deleted from the total demerit points accumulated by that person. The date of the ~~[violation]~~ conviction shall be deemed the date on which accumulated demerit points must be assessed. If a conviction of two or more wildlife violations committed at a single event is obtained, demerit points must be assessed for the offense having the greater number of demerit points.

Sec. 2. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. If a person accumulates 9 or more demerit points, but less than 12, the Department shall notify him of that fact by certified mail. If, after the Department mails the notice, the person presents proof to the Department that he has, after his most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from his record. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his demerit points.

2. If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1, the Department shall suspend or revoke any license, permit or privilege issued to him pursuant to this title.

3. Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that his privileges will be suspended or revoked. Except as otherwise provided in subsection 4, the Department shall suspend or revoke those privileges 30 days after it mails the notice.

4. Any person who receives the notice required by subsection 3 may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.

5. The periods of suspension or revocation imposed pursuant to this section must run concurrently. Except as otherwise provided in this subsection, no license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of:

(a) A gross misdemeanor may not be suspended or revoked for more than 5 years; ~~for~~

(b) ~~1-A~~ Except as otherwise provided in paragraph (c), a felony may not be suspended or revoked for more than 10 years ~~1-A~~; or

(c) Two or more felonies, arising from separate events, must be permanently revoked.

6. If the Department suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection 3 or a determination is made by the Commission pursuant to subsection 4. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be cancelled.

Sec. 3. NRS 502.015 is hereby amended to read as follows:

502.015 1. For the purpose of issuing and using resident licenses, tags or permits pursuant to this chapter, a person is considered to be a resident of the State of Nevada if:

(a) He is a citizen of, or is lawfully entitled to remain in, the United States; and

(b) During the 6 months next preceding his application to the Department for a license, tag or permit, he:

(1) ~~Was domiciled~~ Maintained his principal and permanent residence in this State;

(2) Was physically present in this State, except for temporary absences; and

(3) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

2. A person who ~~is not domiciled~~ *does not maintain his principal and permanent residence* in Nevada but who is attending an institution of higher learning in this State as a full-time student is eligible for a resident license, tag or permit if, during the 6 months next preceding his application to the Department for a license, tag or permit, he:

- (a) Was physically present in Nevada, except for temporary trips outside of the State; and
- (b) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

3. A resident license, tag or permit issued by this State is void if the person to whom it was issued establishes *or maintains* his ~~domicile~~ *principal and permanent residence* in and obtains any *hunting, fishing or trapping* privilege or entitlement conditional on residency from another state, country or province.

4. *As used in this section, "principal and permanent residence" means a place where a person is legally domiciled and maintains a permanent habitation in which he lives and to which he intends to return when he leaves the state in which the permanent habitation is located. The term does not include merely owning a residence in a state.*

Sec. 4. NRS 502.060 is hereby amended to read as follows:

502.060 1. A person applying for and procuring a license, *tag or permit*, as provided in this chapter, shall give to the license agent his name and residence address, which must be entered by the license agent ~~on the license and stub,~~ *manually or electronically in a record specified by the Department*, together with the date of issuance and a description of the person. If a child under the age of 18 years is applying for a license to hunt, the child's parent or legal guardian must sign the application and an attached statement acknowledging that the parent or legal guardian has been advised of the provisions of NRS 41.472.

2. Except as otherwise provided in subsection 3, any person who makes any false statement or furnishes false information to obtain any license, tag or permit issued pursuant to the provisions of this title is guilty of a misdemeanor.

3. Any person who makes any false statement or furnishes false information to obtain any big game tag issued pursuant to the provisions of this title is guilty of a gross misdemeanor.

4. It is unlawful for any person to hunt, fish or trap using any hunting, fishing or trapping license which is invalid by reason of expiration or a false statement made to obtain the license.

5. *Any person convicted of violating the provisions of subsection 2 or 3 forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing conducted for that tag if the bonus point or other increased opportunity was acquired by the false statement or false information.*

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 5. NRS 502.061 is hereby amended to read as follows:

502.061 1. A person, *for a fee or other form of compensation*, may obtain or attempt to obtain on behalf of an applicant any license, tag or permit issued pursuant to this chapter *only if* the person acts pursuant to a power of attorney or other written instrument that:

(a) Provides that the power of attorney or other written instrument is executed for the sole purpose of authorizing the person to apply in the State of Nevada on behalf of the applicant for a license, tag or permit for a specific season;

(b) Provides that the power of attorney or other written instrument expires on February 28 of the year following the year in which the power of attorney or other written instrument is executed; and

(c) Is acknowledged and includes a jurat as defined in NRS 240.0035, or is otherwise certified.

2. Any license, tag or permit which is obtained by the use of a power of attorney or other written instrument that does not comply with the provisions of subsection 1 is void.

Sec. 6. ~~NRS 503.454 is hereby amended to read as follows:~~

~~503.454 1. Every person who takes fur-bearing mammals by any legal method or unprotected mammals by trapping or sells raw furs for profit shall procure a trapping license.~~

~~2. It is unlawful intentionally to remove, [or] disturb or interfere with the trap of any holder of a trapping license while the trap is being legally used by him on public land or on land where~~

~~he has permission to trap. As used in this subsection, "interfere with" means any act that physically impedes, hinders or obstructs the trap.~~ (Deleted by amendment.)

Sec. 6.2. Section 3 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:

Sec. 3. 1. The Department shall issue an apprentice hunting license to a person who:

(a) Is 12 years of age or older;

(b) Has not previously been issued a hunting license by the Department, another state, ~~or~~ an agency of a Canadian province ~~or~~ *or an agency of any other foreign country*, including, without limitation, an apprentice hunting license; and

(c) Except as otherwise provided in subsection 5, is otherwise qualified to obtain a hunting license in this State.

2. Except as otherwise provided in this subsection, the Department shall not impose a fee for the issuance of an apprentice hunting license. For each apprentice hunting license issued, the applicant or the mentor hunter for the applicant shall pay:

(a) Any service fee required by a license agent pursuant to NRS 502.040;

(b) The habitat conservation fee required by NRS 502.242; and

(c) Any transaction fee that is set forth in a contract of this State with a third-party electronic services provider for each online transaction that is conducted with the Department.

3. An apprentice hunting license authorizes the apprentice hunter to hunt in this State as provided in this section.

4. It is unlawful for an apprentice hunter to hunt in this State unless a mentor hunter accompanies and directly supervises the apprentice hunter at all times during a hunt. During the hunt, the mentor hunter shall ensure that:

(a) The apprentice hunter safely handles and operates the firearm or weapon used by the apprentice hunter; and

(b) The apprentice hunter complies with all applicable laws and regulations concerning hunting and the use of firearms.

5. A person is not required to complete a course of instruction in the responsibilities of hunters as provided in NRS 502.340 to obtain an apprentice hunting license.

6. The issuance of an apprentice hunting license does not:

(a) Authorize the apprentice hunter to obtain any other hunting license;

(b) Authorize the apprentice hunter to hunt any animal for which a tag is required pursuant to NRS 502.130; or

(c) Exempt the apprentice hunter from any requirement of this title.

7. The Commission may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Accompanies and directly supervises" means maintains close visual and verbal contact with, provides adequate direction to and maintains the ability readily to assume control of any firearm or weapon from an apprentice hunter.

(b) "Apprentice hunter" means a person who obtains an apprentice hunting license pursuant to this section.

(c) "Mentor hunter" means a person 18 years of age or older who holds a hunting license issued in this State and who accompanies and directly supervises an apprentice hunter. The term does not include a person who holds an apprentice hunting license pursuant to this section.

Sec. 6.4. Section 4 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:

Sec. 4. 1. The Commission ~~shall~~ *may* establish a program for the issuance of additional big game tags each year to be known as "Dream Tags." ~~The~~ *If the Commission establishes such a program, the* program must provide:

(a) For the issuance of ~~to~~ Dream ~~Tag~~ *Tags* to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year; *and*

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section, ~~it and~~

~~(d) Such~~

2. *The Commission may adopt regulations establishing such* other provisions concerning ~~(a) Dream~~ ~~(Tag) Tags~~ as the Commission determines reasonable or necessary in carrying out the program.

~~(2) 3.~~ 3. A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department as are authorized by the Commission, at prices established by the Commission, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for \$5 each to persons who purchase a resource enhancement stamp pursuant to section 5 of this act.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win ~~(a) Dream~~ ~~(Tag) Tags~~, conduct any required drawing for ~~(a) Dream~~ ~~(Tag) Tags~~ and issue ~~(a) Dream~~ ~~(Tag) Tags~~. For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of ~~(wildlife)~~ *game* and its habitat, as determined by the Advisory Board on Dream Tags created by section 6 of this act.

~~(3) 4.~~ 4. All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

~~(4) 5.~~ 5. The ~~(Department)~~ *nonprofit organization* shall, on or before February 1 of each year, report to the *Commission and the* Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations ~~(of the Department)~~ concerning the continuation of the program or necessary legislation.

~~(5) 6.~~ 6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 6.6. Section 5 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:

Sec. 5. 1. To be eligible to participate in the Dream Tag raffle, a person must purchase a resource enhancement stamp.

2. Resource enhancement stamps must be sold for a fee of \$10 each by the Department and by persons authorized by the Department to sell the stamps. *All money*

received by the Department for resource enhancement stamps pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

3. The Department shall determine the form of the stamps.

Sec. 6.8. Section 6 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:

Sec. 6. 1. There is hereby created the Advisory Board on Dream Tags, consisting of the following five members:

- (a) One member appointed by the Governor;
- (b) One member appointed by the Majority Leader of the Senate;
- (c) One member appointed by the Speaker of the Assembly;
- (d) One member appointed by the Advisory Board on Natural Resources; and
- (e) The Vice Chairman of the Commission, who serves as an ex officio member of the Board.

2. Each appointed member of the Board must be a resident of this State and, following the initial terms, serves a term of 2 years.

3. At its first meeting each year, the members of the Board shall elect a Chairman, who shall serve until the next Chairman is elected. The Board shall meet as necessary at the call of the Chairman.

4. A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Board.

5. While engaged in the business of the Board, to the extent of legislative appropriation, each member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. To the extent of legislative appropriation, the Department shall provide the Board with such staff as is necessary to carry out the duties of the Board.

7. The Board shall, in accordance with the requirements of paragraph (c) of subsection ~~4~~ 3 of section 4 of this act, determine the appropriate use of money received by a nonprofit organization from the proceeds of a Dream Tag raffle.

Sec. 7. 1. This section and sections 6.2 to 6.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act ~~become~~ become effective on January 1, 2010.

DEAN A. RHOADS

JERRY D. CLABORN

DAVID R. PARKS

PETE J. GOICOECHEA

Senate Conference Committee

Assembly Conference Committee

Senator Parks moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 411.

Remarks by Senators Parks and Lee.

Senator Parks requested that the following remarks be entered in the Journal.

SENATOR PARKS:

The amendment revises provisions governing certain additional big-game tags. This body will remember that we passed Assembly Bill No. 246. There was some concern relative to that. The concerns have been resolved using Senate Bill No. 411. It changes, with the Wildlife Commission, the word "shall" to "may" in several areas and provides for the dream tags that are highly desired.

SENATOR LEE:

We do share the same ecosystem with the animals. There are some good things about this bill, but what I do not want to do is to start putting these tags out to wealthy individuals. We will get to the point where we are funding the Nevada Division of Wildlife (NDOW) by killing off these wonderful creatures we have in this State. I agree there is a need for proper thinning and animal husbandry, but I am concerned that if we raise a certain amount of money this time, then, we can

take ten more animals next time, breed this, kill those and soon we will be selling the trees in Glenbrook to make money.

Natural resources are something that we need to pass on to the next generations. I will support this as long as NDOW does not add additional animals to be destroyed, that proper scientific research is applied and that money is used on the ground for future preservation of animal habitat. As a Senator, I will keep up on this to make certain that we do not start this process of killing these resources just to fund government.

We must preserve these animals, our assets, and our resources of the State for the proper reasons. It is not always about money.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 202, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 812 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 14, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes concerning ~~the State Board of Cosmetology~~ *cosmetology and certain related practices*. (BDR 54-681)"

"AN ACT relating to cosmetology; *requiring certain persons who engage in the practice of threading or who own or operate certain facilities in which threading is conducted to register with the State Board of Cosmetology under certain circumstances*; revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; increasing the required instruction hours for an aesthetician; *providing a penalty*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.4 of this bill requires certain persons who engage in the practice of threading or who own or operate certain facilities in which threading is conducted to register with State Board of Cosmetology each year. Section 1.4 also authorizes the Board to inspect, during regular business hours, any facility in this State in which threading is conducted.

Sections ~~1.1~~ 1.8 and 3 of this bill revise the definitions of "aesthetician" and "cosmetologist" to reference sugaring. (NRS 644.0205, 644.023) Section 5 of this bill changes the term "manicurist" to "nail technologist," and this bill carries out this change for variations of the term "manicurist" that appear in chapter 644 of NRS. (NRS 644.029)

Section 11 of this bill revises the requirements for admission to examination as an instructor of aestheticians, effective July 1, 2010. (NRS 644.1955) Section 13 of this bill revises the requirements for admission to examination as an instructor in nail technology, effective July 1, 2010. (NRS 644.197) Section 15 of this bill revises the requirements for admission to examination for a license as a nail technologist, effective July 1, 2010. (NRS 644.205) Section 16 of this bill revises the requirements for admission to examination for a license as an aesthetician, effective July 1, 2010. (NRS 644.207)

Existing law sets forth various requirements that must be met before the ~~(State) Board of Cosmetology~~ may issue to a person a certificate of registration as a cosmetologist's apprentice. (NRS 644.217) Section 17 of this bill: (1) eliminates the requirement that such a person be a resident of a county whose population is less than 50,000; (2) requires the training of the person as a cosmetologist's apprentice to be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology; and (3) authorizes the Board to waive, for good cause shown, various requirements for an applicant for a certificate of registration as a cosmetologist's apprentice.

Existing law sets forth the requirements which must be met before the Board renews a license issued pursuant to chapter 644 of NRS. (NRS 644.325) Section 24.5 of this bill requires that before a person applies for the renewal of a license on or after January 1, 2011, as a

cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control.

Section 29 of this bill increases from 120 to 150 the number of hours of instruction a student enrolled as an aesthetician must receive before commencing work on members of the public. (NRS 644.408)

Section 30.5 of this bill requires the Board, on or before February 1, 2011, to prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the practice of threading in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 and 1.4 of this act.

Sec. 1.2. "Threading" means to remove superfluous hair from the body of a person by twisting thread around the hair and pulling it from the skin.

Sec. 1.4. 1. Each natural person who engages in the practice of threading and each owner or operator of a kiosk or other stand-alone facility in which a natural person engages in the practice of threading shall, on or before January 1 of each year, register with the Board on a form prescribed by the Board. The registration must include:

(a) The name, address and telephone number of the person, owner or operator; and
(b) Any other information relating to the practice of the person or the operation of the kiosk or other facility required by the Board. The Board shall not charge a fee for registering a person, owner or operator pursuant to this subsection.

2. The Board may, during regular business hours, inspect any facility in this State in which threading is conducted.

Sec. 1.6. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.029, inclusive, *and section 1.2 of this act* have the meanings ascribed to them in those sections.

~~{Section 1.}~~ *Sec. 1.8. NRS 644.0205 is hereby amended to read as follows:*

644.0205 1. "Aesthetician" means any person who engages in the practices of:

~~{1-}~~ *(a) Beautifying, massaging, cleansing or stimulating the skin of the human body except the scalp,* by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

~~{2-}~~ *(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body ; except the scalp;* and

~~{3-}~~ *(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing , ~~for~~ tweezers ~~{-}~~ or sugaring,*

↗ but does not include the branches of cosmetology of a cosmetologist, hair designer, electrologist or ~~{manicurist}~~ nail technologist.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 2. NRS 644.0225 is hereby amended to read as follows:

644.0225 "Cosmetological establishment" means any premises, mobile unit, building or part of a building where cosmetology is practiced, other than a licensed barbershop in which one or more licensed ~~{manicurists}~~ nail technologists practice.

Sec. 3. NRS 644.023 is hereby amended to read as follows:

644.023 1. "Cosmetologist" means a person who engages in the practices of:

~~{1-}~~ *(a) Cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.*

~~{2-}~~ *(b) Cutting, trimming or shaping the hair.*

~~{3-}~~ *(c) Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands, mechanical or electrical apparatus or appliances, or by other means, or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.*

~~{4-}~~ *(d) Removing superfluous hair from the surface of the body of any person by the use of electrolysis where the growth is a blemish, or by the use of depilatories, waxing , ~~for~~ tweezers ~~{-}~~ or sugaring, except for the permanent removal of hair with needles.*

~~{5-}~~ (e) Manicuring the nails of any person.

~~{6-}~~ (f) Beautifying, massaging, stimulating or cleansing the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or any device, electrical or otherwise, for the care of the skin.

~~{7-}~~ (g) Giving facials or skin care or applying cosmetics or eyelashes to any person.

2. *As used in this section, "depilatories" does not include the practice of threading.*

Sec. 4. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, demonstrator of cosmetics and ~~{manicurist-}~~ nail technologist.

Sec. 5. NRS 644.029 is hereby amended to read as follows:

644.029 ~~{"Manicurist"}~~ "Nail technologist" means any person who, for compensation or by demonstration, engages in the practices of:

1. Care of another's fingernails or toenails.
2. Beautification of another's nails.
3. Extension of another's nails.
4. Massaging of another's hands, forearms, feet or lower legs.

Sec. 6. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, one ~~{manicurist-}~~ nail technologist, one aesthetician and one member representing customers of cosmetology.

Sec. 7. NRS 644.040 is hereby amended to read as follows:

644.040 1. No person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a ~~{manicurist-}~~ nail technologist, electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before his appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed to represent customers of cosmetology.

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 8. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every ~~{manicurist-}~~ nail technologist, electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 9. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, aesthetician or ~~{manicurist-}~~ nail technologist for 1 year and submits written verification of his experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than \$40 and not more than \$75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year ~~from~~ after the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 10. NRS 644.195 is hereby amended to read as follows:

644.195 1. Each instructor must:

(a) Be licensed as a cosmetologist pursuant to this chapter.

(b) Have successfully completed the 12th grade in school or its equivalent.

(c) Have 1 year of experience as a cosmetologist or as a licensed student instructor.

(d) Have completed 1,000 hours of training as an instructor or 500 hours of training as a *licensed* provisional instructor in a school of cosmetology.

(e) Except as otherwise provided in subsection 2, take one or more courses in advanced techniques for teaching or training, approved by the Board, whose combined duration is at least 30 hours during each 2-year period.

2. The provisions of paragraph (e) of subsection 1 do not apply to an instructor who is initially licensed not more than 6 months before the renewal date of the license. An instructor who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in paragraph (e) whose combined duration is at least 15 hours during each 2-year period.

3. Each instructor shall pay an initial fee for a license of not less than \$60 and not more than \$90.

Sec. 11. NRS 644.1955 is hereby amended to read as follows:

644.1955 1. The Board shall admit to examination for a license as an instructor of aestheticians any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of ~~1,000~~ 700 hours of training as an instructor or ~~1,000~~ 500 hours of training as a *licensed* provisional instructor in a licensed school of cosmetology;

(e) Is licensed as an aesthetician pursuant to this chapter; and

(f) Has practiced as a full-time licensed aesthetician or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor of aestheticians shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor of aestheticians who is initially licensed not more than 6 months before the renewal date of the license. An instructor of aestheticians who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 12. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in ~~manicuring~~ nail technology any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or 250 hours of training as a provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a ~~{manicurist}~~ *nail technologist* pursuant to this chapter; and
 (f) Has practiced as a full-time licensed ~~{manicurist}~~ *nail technologist* or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in ~~{manicuring}~~ *nail technology* shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in ~~{manicuring}~~ *nail technology* who is initially licensed not more than 6 months before the renewal date of the license. An instructor in ~~{manicuring}~~ *nail technology* who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2 year period.

Sec. 13. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in nail technology any person who has applied to the Board in proper form, paid the fee and:

- (a) Is at least 18 years of age;
- (b) Is of good moral character;
- (c) Has successfully completed the 12th grade in school or its equivalent;
- (d) Has received a minimum of 500 hours of training as an instructor or ~~{250 hours of training}~~ as a *licensed* provisional instructor in a licensed school of cosmetology;
- (e) Is licensed as a nail technologist pursuant to this chapter; and
- (f) Has practiced as a full-time licensed nail technologist or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in nail technology shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in nail technology who is initially licensed not more than 6 months before the renewal date of the license. An instructor in nail technology who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 14. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a ~~{manicurist}~~ *nail technologist* any person who has made application to the Board in proper form, paid the fee ~~{-}~~ and who , before or on the date of the examination:

- 1. Is not less than 18 years of age.
- 2. Is of good moral character.
- 3. Has successfully completed the 10th grade in school or its equivalent.
- 4. Has had any one of the following:
 - (a) Practical training of at least 500 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.
 - (b) Practice as a full-time licensed ~~{manicurist}~~ *nail technologist* for 1 year outside the State of Nevada.

Sec. 15. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee ~~{-}~~ and who , before or on the date of the examination:

- 1. Is not less than 18 years of age.
- 2. Is of good moral character.
- 3. Has successfully completed the 10th grade in school or its equivalent.
- 4. Has had any one of the following:
 - (a) Practical training of at least ~~{500}~~ 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.
 - (b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 16. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. Has successfully completed the 10th grade in school or its equivalent; and
4. Has received a minimum of ~~600~~ 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 17. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

- (a) The person is ~~in a resident of a county whose population is less than 50,000;~~
- ~~(b) The person is~~ required to travel more than 60 miles from his place of residence to attend a licensed school of cosmetology; and
- ~~((c))~~ (b) The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located ~~in such a county;~~ 60 miles or more from a licensed school of cosmetology.

2. *The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.*

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of \$100 and must include:

- (a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the application and that his license has been in good standing during that period;
- (b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and
- (c) Such other information as the Board may require by regulation.

~~3.4~~ 4. A certificate of registration as a cosmetologist's apprentice is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 18. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

- (a) For examination as a cosmetologist, not less than \$75 and not more than \$200.
- (b) For examination as an electrologist, not less than \$75 and not more than \$200.
- (c) For examination as a hair designer, not less than \$75 and not more than \$200.
- (d) For examination as a ~~manicurist;~~ nail technologist, not less than \$75 and not more than \$200.
- (e) For examination as an aesthetician, not less than \$75 and not more than \$200.
- (f) For examination as an instructor of aestheticians, hair designers, cosmetology or ~~manicuring;~~ nail technology, not less than \$75 and not more than \$200.

↪ The fee for each reexamination is not less than \$75 and not more than \$200.

2. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is \$75.

3. Each applicant referred to in subsections 1 and 2 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 19. NRS 644.240 is hereby amended to read as follows:

644.240 Examinations for licensure as a cosmetologist may include:

1. Practical demonstrations in shampooing the hair, hairdressing, styling of hair, finger waving, coloring of hair, ~~manicuring;~~ nail technology, cosmetics, thermal curling, marcelling, facial massage, massage of the scalp with the hands, and cutting, trimming or shaping hair;
2. Written or oral tests on:
 - (a) Antisepsis, sterilization and sanitation;
 - (b) The use of mechanical apparatus and electricity as applicable to the practice of a cosmetologist; and

(c) The laws of Nevada and the regulations of the Board relating to the practice of cosmetology; and

3. Such other demonstrations and tests as the Board may require.

Sec. 20. NRS 644.245 is hereby amended to read as follows:

644.245 The examination for a license as a ~~{manicurist}~~ *nail technologist* may include:

1. Practical demonstrations in manicuring, pedicuring or the wrapping or extension of nails;

2. Written and oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity in caring for the nails; and

(c) The laws of Nevada and regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 21. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ~~{manicurist}~~ *nail technologist*, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 22. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ~~{manicurist}~~ *nail technologist*, electrologist, aesthetician, hair designer, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his place of business, as designated in the records of the Board, notify the Secretary of the Board of his new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 23. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ~~{manicurist}~~ *nail technologist*, demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 24. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For ~~{manicurists}~~ *nail technologists*, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.

(b) For instructors, not less than \$60 and not more than \$100.

(c) For cosmetological establishments, not less than \$100 and not more than \$200.

(d) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, ~~{manicurist}~~ *nail technologist*, demonstrator of cosmetics or instructor must be

accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 24.5. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

- (a) Made on a form prescribed and furnished by the Board;
- (b) Made on or before the date for renewal specified by the Board;
- (c) Accompanied by the fee for renewal; and
- (d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

- (a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.
- (b) For instructors, not less than \$60 and not more than \$100.
- (c) For cosmetological establishments, not less than \$100 and not more than \$200.
- (d) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. *Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.*

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 644.330 is hereby amended to read as follows:

644.330 1. A ~~manicurist,~~ nail technologist, electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any ~~manicurist,~~ nail technologist, electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No ~~manicurist,~~ nail technologist, electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 27. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed ~~manicurists,~~ nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the

regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

3. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 28. NRS 644.370 is hereby amended to read as follows:

644.370 A cosmetological establishment must, at all times, be under the immediate supervision of a licensed ~~manicurist~~ *nail technologist*, electrologist, aesthetician, hair designer or cosmetologist.

Sec. 29. NRS 644.408 is hereby amended to read as follows:

644.408 A student must receive the following minimum amount of instruction in the classroom before commencing work on members of the public:

1. A student enrolled as a cosmetologist must receive at least 300 hours.
2. A student enrolled as a hair designer must receive at least 300 hours.
3. A student enrolled as a ~~manicurist~~ *nail technologist* must receive at least 100 hours.
4. A student enrolled as an electrologist's apprentice must receive at least 150 hours.
5. A student enrolled as an aesthetician must receive at least ~~120~~ 150 hours.

Sec. 30. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, ~~manicurist~~ *nail technologist*, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

- (a) Refuse to issue or renew a license;
- (b) Revoke or suspend a license;
- (c) Place the licensee on probation for a specified period;
- (d) Impose a fine not to exceed \$2,000; or
- (e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 30.5. On or before February 1, 2011, the State Board of Cosmetology shall prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the practice of threading in this State. The report must include, without limitation:

- 1. An overview of the practice of threading in this State;*
- 2. An analysis of any health issues relating to the practice of threading;*
- 3. The extent to which the practice of threading is or should be regulated in this State;*
- 4. Any recommendations for legislation relating to the practice of threading; and*
- 5. Any other information required by the Board.*

Sec. 31. 1. This section and sections 1 to 9, inclusive, 12, 14, 17 to 24, inclusive, and 26 to 30, inclusive, of this act become effective upon passage and approval.

2. Sections 10, 11, 13, 15 and 16 of this act become effective on July 1, 2010.

3. Section 24.5 of this act becomes effective on January 1, 2011.

MAGGIE CARLTON

DAVID R. PARKS

MARK E. AMODEI

Senate Conference Committee

KATHY A. MCCLAIN

MARCUS L. CONKLIN

JOSEPH P. HARDY

Assembly Conference Committee

Senator Carlton moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 202.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

We realized that the threading issue, the depilatory that was the contentious issue within this piece of legislation, could be addressed with registration of the natural persons and businesses who will be doing this so that we can monitor it to make certain that safety, health and sanitation needs are met.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 309 be taken from Unfinished Business File and placed on Unfinished Business on the next agenda.

Motion carried.

UNFINISHED BUSINESS REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 454, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 763 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 12, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises certain provisions relating to housing. (BDR 10-839)"

"AN ACT relating to housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; *revising provisions for the summary eviction of a tenant under certain circumstances; revising provisions concerning the board of directors or trustees of a mobile home park owned or leased by a nonprofit organization*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated

on one or more of the grounds listed in existing law regardless of the fact that a notice of termination may have been served upon the tenant. (NRS 118B.190, 118B.200)

Section 6.5 of this bill revises provisions for the summary eviction of a tenant for default in payment of rent. (NRS 40.253)

Section 7 of this bill increases from 2 to 4 years the term of office for a person serving on the board of directors or trustees of a mobile home park owned or leased by a nonprofit organization. (NRS 461A.215) Section 8 of this bill provides for the staggering of such terms.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy ~~for~~ or service of a notice pursuant to subsection 1 of NRS 118B.190, the rental agreement described in NRS 118B.190 may not be terminated except ~~for~~ on one or more of the following grounds:

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➡ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~(The)~~ *If the tenant is in possession of commercial premises, the court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. If the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less, the court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant not sooner than 2 days after receipt of the order.* The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the

landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~there~~ :

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

- (a) The tenant has vacated or been removed from the premises; and
 - (b) A copy of those charges has been requested by or provided to the tenant,
- ↪ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

- (a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and
- (b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 7. NRS 461A.215 is hereby amended to read as follows:

461A.215 1. Notwithstanding any provision of law to the contrary, if a nonprofit organization owns or leases a mobile home park:

- (a) The board of directors or trustees which controls the mobile home park must be selected as set forth in this section; and
- (b) The provisions of this section govern the operation of the nonprofit organization and the mobile home park.

2. If a nonprofit organization owns or leases only one mobile home park, the board of directors or trustees which controls the mobile home park must be composed of:

- (a) Three directors or trustees who are residents of the mobile home park and are elected by a majority of the residents who live in the mobile home park, with each unit in the mobile home park authorized to cast one vote;

(b) Except as otherwise provided in subsection 4, three directors or trustees appointed by the governing body of the local government with jurisdiction over the location of the mobile home park; and

(c) Three directors or trustees elected by a majority of the other directors or trustees selected pursuant to this subsection.

3. If a nonprofit organization owns or leases more than one mobile home park, the board of directors or trustees which controls the mobile home parks must be composed of:

(a) For each mobile home park, one director or trustee who is a resident of that mobile home park and is elected by a majority of the residents who live in that mobile home park, with each unit in the mobile home park authorized to cast one vote;

(b) Except as otherwise provided in subsection 4, one director or trustee appointed for each mobile home park by the governing body of the local government with jurisdiction over the location of that mobile home park; and

(c) For each mobile home park, one director or trustee elected by a majority of the other directors or trustees selected pursuant to this subsection.

4. The governing body of a local government with jurisdiction over the location of a mobile home park owned or leased by a nonprofit organization shall not appoint a director or trustee pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3 unless the land upon which the mobile home park is located or the improvements to that land are owned by any governmental entity, patented to any governmental entity or leased to the nonprofit organization by any governmental entity.

5. The term of office of a director or trustee selected pursuant to this section:

(a) Is ~~(2) 4~~ years, except that upon the expiration of his term of office he shall continue to serve until his successor is selected; and

(b) Commences on July 1, ~~[of each odd numbered year]~~

6. Any vacancy occurring in the membership of the board of directors or trustees selected pursuant to this section must be filled in the same manner as the original election or appointment.

7. The Attorney General shall:

(a) Enforce the provisions of this section;

(b) Investigate suspected violations of the provisions of this section; and

(c) Institute proceedings on behalf of this State, an agency or political subdivision of this State, or as parens patriae of a person residing in a mobile home park:

(1) For injunctive relief to prevent and restrain a violation of any provision of this section; and

(2) To collect any costs or fees awarded pursuant to the provisions of this section.

8. The provisions of this section may be enforced with regard to a nonprofit organization or a mobile home park by:

(a) The nonprofit organization;

(b) The board of directors or trustees required to be selected pursuant to this section, or any member thereof;

(c) A person who claims membership on the board of directors or trustees required to be selected pursuant to this section;

(d) A resident of the mobile home park;

(e) The local government with jurisdiction over the location of the mobile home park; or

(f) Any combination of the persons described in paragraphs (a) to (e), inclusive.

9. In any action to enforce the provisions of this section, including, without limitation, an action to prevent or restrain a violation of the provisions of this section, if a person is found to have knowingly acted as a director or trustee on a board of directors or trustees required to be selected pursuant to this section while he was not authorized to act as such a director or trustee pursuant to this section:

(a) The court shall award the prevailing party costs and attorney's fees;

(b) If the nonprofit organization which owns or leases a mobile home park participates in the action, the court shall award the nonprofit organization costs and attorney's fees; and

(c) Costs and attorney's fees awarded pursuant to this section must be recovered from the person. If in the same action to enforce the provisions of this section, more than one person is

found to have knowingly acted as a director or trustee on a board of directors or trustees required to be selected pursuant to this section while he was not authorized to act as such a director or trustee pursuant to this section, each such person is jointly and severally liable for the costs and attorney's fees awarded pursuant to this section.

10. The provisions of this section do not apply to a corporate cooperative park.

11. As used in this section:

(a) "Board of directors or trustees which controls the mobile home park" means:

(1) If the nonprofit organization which owns or leases a mobile home park does not own or operate any substantial asset that is unrelated to the mobile home park, the board of directors or trustees of the nonprofit organization; or

(2) If the nonprofit organization which owns or leases a mobile home park owns or operates a substantial asset that is unrelated to the mobile home park, a board of directors or trustees which:

(I) Has full and independent control over the affairs of the nonprofit organization that are related to the mobile home park, including, without limitation, full and independent control over all policies, operation, property, assets, accounts and records of the nonprofit organization which are related to or derived from the park;

(II) Notwithstanding any provision of law to the contrary, exercises the powers described in sub-subparagraph (I) without being subject to any control by the board of directors or trustees of the nonprofit organization or any other person, group or entity within or related to the nonprofit organization; and

(III) If the nonprofit organization owns or leases more than one mobile home park, controls all of the mobile home parks owned or leased by the nonprofit organization.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

(c) "Governmental entity" includes, without limitation, the Federal Government, this State, an agency or political subdivision of this State, a municipal corporation and a housing authority.

(d) "Nonprofit organization" includes, without limitation, a corporation for public benefit.

(e) "Owns or leases a mobile home park" means being the owner or lessee of:

(1) The land upon which the mobile home park is located; or

(2) The improvements to the land upon which the mobile home park is located.

Sec. 8. Notwithstanding the provisions of subsection 5 of NRS 461A.215, as amended by section 7 of this act, for the terms commencing on July 1, 2009:

1. Of the three directors or trustees elected pursuant to paragraph (a) of subsection 2 of NRS 461A.215:

(a) One director or trustee must be elected to a term expiring on July 1, 2011; and

(b) Two directors or trustees must be elected to terms expiring on July 1, 2012.

2. Of the three directors or trustees appointed pursuant to paragraph (b) of subsection 2 of NRS 461A.215:

(a) One director or trustee must be appointed to a term expiring on July 1, 2011; and

(b) Two directors or trustees must be appointed to terms expiring on July 1, 2012.

Sec. 9. This act becomes effective upon passage and approval.

MAGGIE CARLTON

WILLIAM C. HORNE

ALLISON COPENING

KATHY A. MCCLAIN

Senate Conference Committee

Assembly Conference Committee

Senator Carlton moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 454.

Remarks by Senators Carlton and Hardy.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

This addresses eviction standards. It adds another two days, and it allows for staggering of terms of the board members on manufactured homeowners' associations that are nonprofit or governmentally owned. We were losing the whole board and losing all of the institutional

knowledge. This will allow one member to stay and two to go so there will be some continuity on the board.

SENATOR HARDY:

I rise in opposition to the adoption of the Conference Committee Report. I did not think during the committee hearings on the original bill that there was any compelling need to extend the number of days that a tenant could be removed. The Conference Committee has amended this to do that. I will not support that.

SENATOR CARLTON:

We heard compelling testimony within the Conference Committee explaining how this procedure is done now. If the weekend is involved, they can stay over the weekend. This addresses the "during the week" provision on allowing people to have that extra time to leave. This applies to the daily and weekly rentals. This is not the 30-day lease provision that I see in this. In certain cases, we heard that when the order would be issued, it could be issued that day, delivered at 3:00 p.m. and the person would have only hours to leave. This addresses those issues.

Motion lost on a division of the house.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 6:33 p.m.

SENATE IN SESSION

At 7:09 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that vetoed Assembly Bills Nos. 563, 562, 552, 543 and 146 of the 75th Session be made a Special Order of Business for Sunday, May 31, 2009, at 7:15 p.m.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:10 p.m.

SENATE IN SESSION

At 7:14 p.m.

President Krolicki presiding.

Quorum present.

SPECIAL ORDERS OF THE DAY

VETO MESSAGES OF THE GOVERNOR

The hour of 7:15 p.m. having arrived, Vetoed Assembly Bills Nos. 563, 562, 552, 543 and 146 of the 75th Session were considered.

Vetoed Assembly Bill No. 563 of the 75th Session.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 563, which is entitled:

AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2009-2011 biennium; apportioning the State Distributive School Account in the State General Fund for the 2009-2011 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; authorizing temporarily the board of trustees of a school district to use money raised through its general obligations for the purchase of equipment for the transportation of pupils; revising provisions governing local funds available for certain school districts for the 2009-2011 biennium; and providing other matters properly relating thereto.

I take no joy in rejecting this bill as it provides an appropriation for the distributive school account. However, this bill is part and parcel of the overall budget. Because that budget is funded by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 563.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 563 of the 75th Session:

YEAS—19.

NAYS—Amodei, McGinness—2.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 562 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 562, which is entitled:

AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2009, and ending June 30, 2010, and

beginning July 1, 2010, and ending June 30, 2011; providing for the use of the money so appropriated; revising the provisions governing the line of credit from the Local Government Pooled Investment Fund; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

Assembly Bill 562 is the general appropriations bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 562.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 562 of the 75th Session:

YEAS—17.

NAYS—Amodei, Cegavske, McGinness, Washington—4.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 552 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701
DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 552, which is entitled:

AN ACT relating to taxation; increasing the fee charged by the State for collecting certain local sales and use taxes; establishing the required time for payment to the State of certain proceeds from taxes on revenue from the rental of transient lodging; making permanent a temporary reduction in various allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products; and providing other matters properly relating thereto.

Assembly Bill 552 pertains to state collection allowances for various taxes. I agreed to increases in these types of allowances in the 25th Legislative Special Session with the understanding that the increases would expire on June 30, 2009. A continuation of those increases was not included in the Executive Budget and I therefore cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 552.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 552 of the 75 Session:

YEAS—17.

NAYS—Amodei, Cegavske, McGinness, Washington—4.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 543 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,

Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 543, which is entitled:

AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; revising the provisions governing the imposition and use of a supplemental governmental services tax in certain counties; temporarily redirecting a portion of certain taxes imposed in Clark County to the county general fund; and providing other matters properly relating thereto.

Assembly Bill 543 pertains to reallocations of county revenues and also authorizes an increase in the governmental services tax. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, and also because this bill reallocates county revenues in an amount greater than I recommended in the Executive Budget, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 543.

Sincerely,

JIM GIBBONS

Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 543 of the 75th Session:

YEAS—15.

NAYS—Amodei, Care, Cegavske, Lee, McGinness, Washington—6.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 146 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 146, which is entitled:

AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring certain responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; making an appropriation; and providing other matters properly relating thereto.

Assembly Bill 146 would authorize the Nevada Secretary of State to create a business portal to facilitate transactions between the government and private businesses. The bill also transfers certain responsibilities for issuing business licenses from the Department of Taxation to the Secretary of State's office.

If this were where the bill ended, in the authorization for the Secretary of State to create this portal, I would gladly sign the legislation and be pleased the state was improving the ease of conducting business in Nevada. Unfortunately, the bill contains other provisions I do not believe improve the business climate in Nevada and, in fact, outweigh any benefits from the creation of the business portal.

Assembly Bill 146 would double the annual licensing fee the State of Nevada charges businesses. The legislation would also create a new business license fee for each additional physical location of a business in our state. It is because of these fee increases, greatly expanding the amount of money being collected from Nevada businesses, that I cannot support this otherwise sound legislation.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 146.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 146 of the 75th Session:

YEAS—17.

NAYS—Amodei, Cegavske, McGinness, Washington—4.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:28 p.m.

SENATE IN SESSION

At 7:45 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day failed to sustain the Governor's veto of Senate Bill No. 283; Assembly Bills Nos. 121, 147, 304, 319, 381, 467 of the 75th Session.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 30.

Resolution read.

Senator Woodhouse moved the adoption of the resolution as amended.

Resolution adopted as amended.

Resolution ordered transmitted to the Assembly.

Senator Care moved that Senate Bill No. 52 be taken from the Secretary's desk and placed on the top of the General File.

Motion carried on a division of the house.

Senator Care moved that Assembly Bill No. 451 be taken from General File and placed on the Secretary's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 52.

Bill read third time.

The following amendment was proposed by Senator Horsford:

Amendment No. 974.

"SUMMARY—Revises provisions relating to drivers' licenses and identification cards ~~to facilitate implementation of the federal Real ID Act of 2005.~~ (BDR 43-391)"

"AN ACT relating to transportation; revising certain provisions governing the issuance and renewal of drivers' licenses and identification cards; ~~to comport with the federal Real ID Act of 2005;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Real ID Act of 2005 (Public Law 109-13, Division B, Title II, 119 Stat. 311, 49 U.S.C. § 30301) imposes certain security, authentication and issuance standards for commercial and noncommercial drivers' licenses and identification cards. The Department of Motor Vehicles must comply with these standards for Nevada drivers' licenses and identification cards to be accepted by the Federal Government for "official purposes," such as boarding commercially operated airline flights and entering federal buildings. This bill revises certain provisions governing the issuance and renewal of drivers' licenses and identification cards to bring the State of Nevada into compliance with the Real ID Act.

Sections 11, 26 and 33 of this bill require that an applicant for a commercial or noncommercial driver's license or an identification card furnish to the Department proof of his address by displaying at least two of the documents prescribed by the Department by regulation. Sections 11, 26 and 33 also require that an applicant provide to the Department proof that he is authorized to live in the United States and proof of his social security number or, if he does not have a social security number, proof that he is not eligible to receive a social security number.

Sections 11, 26 and 33 of this bill further authorize the Department to issue a commercial or noncommercial driver's license or an identification card to a person who does not have the requisite documentation ~~_, but any such identification card would be distinguishable from standard drivers' licenses and identification cards and would not be accepted by the Federal Government for "official purposes."~~

Existing law requires that the Department adopt regulations prescribing the information that must be contained on noncommercial drivers' licenses and identification cards. (NRS 483.340, 483.840) Sections 3, 4 and 5 of this bill require that, with limited exceptions, the address of a person be included on his commercial or noncommercial driver's license or identification card.

With limited exceptions, sections 19, 22 and 33 of this bill require that the Department maintain for at least 10 years digital images of applications for commercial and noncommercial drivers' licenses and identification cards and the documents that applicants furnish to the Department which prove identity, age, address and social security number and prove that the person is lawfully entitled to live in the United States.

Existing law requires that an applicant for a driver's license or identification card surrender to the Department all valid drivers' licenses and identification cards in his possession. The Department is required to return surrendered licenses and identification cards to the jurisdiction that issued them. (NRS 483.230, 483.850) Sections 10 and 25 of this bill instead require that the Department notify the other jurisdiction that the applicant has surrendered his license or identification card.

Sections 1 and 9 of this bill amend the definition of "resident" so that a person who is a nonresident of this State may not declare himself to be a resident of this State to obtain privileges not ordinarily extended to nonresidents. (NRS 482.103, 483.141)

Existing law requires that the Department issue a driver's license with a specially colored background to a person who suffers from diabetes or epilepsy. (NRS 483.348) Sections 12-15, 23, 24 and 27 of this bill require instead that the Department adopt by regulation a program for the imprinting of a symbol or other indicator of a medical condition on a noncommercial driver's license or identification card.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 482.103 is hereby amended to read as follows:

482.103 1. "Resident" includes, but is not limited to, a person:

- (a) Whose legal residence is in the State of Nevada.
- (b) Who engages in intrastate business and operates in such a business any motor vehicle, trailer or semitrailer, or any person maintaining such vehicles in this State, as the home state of such vehicles.
- (c) Who physically resides in this State and engages in a trade, profession, occupation or accepts gainful employment in this State.

~~[(d) Who declares himself to be a resident of Nevada for purposes of obtaining privileges not ordinarily extended to nonresidents of this State.]~~

2. The term does not include a person who is an actual tourist, an out-of-state student, a border state employee or a seasonal resident.

3. The provisions of this section do not apply to persons who operate vehicles in this State under the provisions of NRS 706.801 to 706.861, inclusive, 482.385, 482.390 or 482.395.

Sec. 2. Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. 1. *A driver's license must include the licensee's address of principal residence unless:*

(a) The licensee is a person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive;

(b) State or federal law or a court order requires that the licensee's address of principal residence remain confidential;

(c) The driver's license is issued pursuant to subsection 4 of NRS 483.290;
or

(d) The driver's license is issued pursuant to subsection 3 of NRS 483.340.

2. *The Department shall adopt regulations setting forth the requirements for determining whether an applicant or licensee qualifies to have his address of principal residence excluded from his driver's license pursuant to paragraph (a), (b) or (c) of subsection 1.*

Sec. 4. 1. *An identification card must include the holder's address of principal residence unless:*

(a) The holder is a person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive;

(b) State or federal law or a court order requires that the holder's address of principal residence remain confidential; or

(c) The driver's license is issued pursuant to subsection 2 of NRS 483.860.

2. *The Department shall adopt regulations setting forth the requirements for determining whether a person qualifies to have his address of principal residence excluded from his identification card pursuant to subsection 1.*

Sec. 5. 1. *A commercial driver's license must include the holder's address of principal residence unless:*

(a) The holder is a person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive;

(b) State or federal law or a court order requires that the holder's address of principal residence remain confidential; or

(c) *The commercial driver's license is issued pursuant to subsection 4 of NRS 483.928.*

2. *The Department shall adopt regulations setting forth the requirements for determining whether a person qualifies to have his address of principal residence excluded from his commercial driver's license pursuant to subsection 1.*

Sec. 6. NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, *and section 3 of this act* apply only with respect to noncommercial drivers' licenses.

Sec. 7. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 483.083 is hereby amended to read as follows:

483.083 "License" means any driver's license or permit to operate a vehicle issued under or granted by the laws of this State, including:

1. Any temporary license, *license issued pursuant to paragraph (b) of subsection 7 of NRS 483.290* or instruction permit; and

2. The future privilege to drive a vehicle by a person who does not hold a driver's license.

Sec. 9. NRS 483.141 is hereby amended to read as follows:

483.141 1. "Resident" includes, but is not limited to, a person:

(a) Whose legal residence is in the State of Nevada.

(b) Who engages in intrastate business and operates in such a business any motor vehicle, trailer or semitrailer, or any person maintaining such vehicles in this State, as the home state of such vehicles.

(c) Who physically resides in this State and engages in a trade, profession, occupation or accepts gainful employment in this State.

~~[(d) Who declares himself to be a resident of this State to obtain privileges not ordinarily extended to nonresidents of this State.]~~

2. The term does not include a person who is an actual tourist, an out-of-state student, a foreign exchange student, a border state employee or a seasonal resident.

3. The provisions of this section do not apply to drivers of vehicles operated in this State under the provisions of NRS 706.801 to 706.861, inclusive, 482.385, 482.390 or 482.395.

Sec. 10. NRS 483.230 is hereby amended to read as follows:

483.230 1. Except persons expressly exempted in NRS 483.010 to 483.630, inclusive, *and section 3 of this act*, a person shall not drive any motor vehicle upon a highway in this State unless ~~such~~ *the* person has a valid license as a driver under the provisions of NRS 483.010 to 483.630, inclusive, *and section 3 of this act* for the type or class of vehicle being driven.

2. Any person licensed as a driver under the provisions of NRS 483.010 to 483.630, inclusive, *and section 3 of this act* may exercise the privilege thereby granted upon all streets and highways of this State and ~~shall~~ *must* not be required to obtain any other license to exercise ~~such~~ *the* privilege by any county, municipal or local board or body having authority to adopt local police regulations.

3. Except persons expressly exempted in NRS 483.010 to 483.630, inclusive, *and section 3 of this act*, a person shall not steer or exercise any degree of physical control of a vehicle being towed by a motor vehicle upon a highway unless ~~such~~ *the* person has a license to drive the type or class of vehicle being towed.

4. A person shall not receive a driver's license until he surrenders to the Department all valid licenses *and identification cards* in his possession issued to him by this or any other ~~jurisdiction. Surrendered licenses issued by another jurisdiction shall be returned by the Department to such jurisdiction.~~ *state or territory of the United States. If a person surrenders to the Department a license or identification card issued to him by a state or territory of the United States other than the State of Nevada, the Department shall notify that other state or territory of the surrender.*

5. A person shall not have more than one valid driver's license ~~or~~ *or* identification card.

Sec. 11. NRS 483.290 is hereby amended to read as follows:

483.290 1. Every application for an instruction permit or for a driver's license must:

(a) Be made upon a form furnished by the Department.

(b) Be ~~verified~~ *affirmed* by the applicant, *under penalty of perjury* before a person authorized to administer oaths ~~or~~, *to state that the information contained in the application is true and correct.* Officers and employees of the Department may administer those oaths without charge.

(c) Be accompanied by the required fee.

(d) State the full legal name, date of birth, sex, address of principal residence and mailing address, if different from the address of principal residence, of the applicant and briefly describe the applicant.

(e) State whether the applicant has ~~theretofore~~ *been* licensed as a driver ~~or~~ and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused ~~or~~ and, if so, the date of and reason for the suspension, revocation or refusal.

(f) Include such other information as the Department may require to determine the competency and eligibility of the applicant.

2. Every applicant must furnish ~~proof~~ *to the Department*:

(a) *Proof* of his full legal name and age by displaying an original or certified copy of the required documents as prescribed by regulation.

(b) *Proof* of his address of principal residence by displaying at least two of the required documents as prescribed by regulation.

(c) *Proof of his social security number or proof that he is not eligible to receive a social security number, as prescribed by regulation.*

(d) *Proof that he is lawfully entitled to live in the United States as prescribed by regulation.*

3. The Department shall adopt regulations prescribing the documents *and other forms of proof that an applicant may use to* ~~furnish proof of his full legal name and age~~ *prove to the Department* ~~the matters described in subsection 2.~~

4. *The Department may issue a driver's license to an applicant who does not have the documents or other forms of proof otherwise required by subsection 2 if the applicant meets the requirements prescribed by the Director by regulation.* ~~[A driver's license issued pursuant to this subsection must be different in form and distinguishable in color or distinguishable in some other manner from a driver's license that satisfies the requirements of the federal Real ID Act of 2005, 49 U.S.C. § 30301.]~~ *The Director may adopt such regulations as he determines to be necessary or convenient to carry out the provisions of this subsection.*

5. At the time of applying for a driver's license, an applicant may, if eligible, register to vote pursuant to NRS 293.524.

~~{5. Every applicant who has been assigned a social security number must furnish proof of his social security number by displaying:~~

~~(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~(b) Other proof acceptable to the Department, including, without limitation, records of employment or federal income tax returns.]~~

6. The Department may refuse to accept a driver's license issued by another state, the District of Columbia or any territory of the United States if the Department determines that the other state, the District of Columbia or the territory of the United States has less stringent standards than the State of Nevada for the issuance of a driver's license.

7. With respect to any document presented by a person who was born outside of the United States to prove his full legal name , ~~and~~ age ~~and~~ *that he is lawfully entitled to live in the United States*, the Department:

(a) May, if the document has expired, refuse to accept the document or refuse to issue a driver's license to the person presenting the document, or both; and

(b) Shall issue to the person presenting the document a driver's license that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the driver's license is valid for 1 year beginning on the date of issuance.

8. The Administrator shall adopt regulations setting forth criteria pursuant to which the Department will issue or refuse to issue a driver's license in accordance with this section to a person who is a citizen of any state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department ~~shall~~ *will* issue or

refuse to issue a driver's license to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.

9. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an instruction permit or for a driver's license. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.

Sec. 12. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to

NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) ~~[If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give]~~ Give the holder the opportunity to have a symbol or other indicator of a medical condition, *as prescribed by regulations of the Department pursuant to NRS 483.3485*, imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 13. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon *application and* payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license. *The regulations adopted pursuant to this subsection must not conflict with the regulations adopted pursuant to section 3 of this act.*

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency,

the Attorney General or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) ~~If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give~~ Give the holder the opportunity to have a symbol or other indicator of a medical condition, *as prescribed by regulations of the Department pursuant to NRS 483.3485*, imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 14. NRS 483.348 is hereby amended to read as follows:

483.348 1. ~~{Except as otherwise provided in subsection 2, the}~~ The Department shall issue a driver's license with ~~{a specially colored background}~~ the relevant symbol or other indicator of a medical condition, *as prescribed by regulations of the Department pursuant to NRS 483.3485*, to

any person who qualifies for a driver's license pursuant to the provisions of this chapter and delivers to the Department a signed statement from a physician that the person ~~[is an]~~ *suffers from* insulin-dependent ~~[diabetic or an epileptic]~~. The Department shall designate one color to be used only for a driver's license held by a diabetic and another color to be used only for a driver's license held by an epileptic.

~~2. In lieu of issuing a driver's license pursuant to subsection 1, the Department may issue to a person specified in that subsection a driver's license with a specially colored border around the photograph on the license.~~

~~3.] diabetes or epilepsy.~~

2. The Department of Public Safety shall provide for the education of peace officers on the:

(a) Effects and treatment of a person suffering from a diabetic condition or an epileptic seizure and the similarity in appearance of a person suffering from a diabetic condition or an epileptic seizure to a person under the influence of alcohol or a controlled substance; and

(b) Procedures for identifying and handling situations involving a person suffering from a diabetic condition or an epileptic seizure.

Sec. 15. NRS 483.3485 is hereby amended to read as follows:

483.3485 1. The Department ~~[may]~~ *shall* adopt regulations establishing a program for the imprinting of a symbol or other indicator of a medical condition on a driver's license issued by the Department. *The program established by the Department must include, without limitation, a symbol or other indicator to be used for a driver's license held by a person who suffers from insulin-dependent diabetes and another symbol or other indicator to be used for a driver's license held by a person who suffers from epilepsy.*

2. Regulations adopted pursuant to subsection 1 must require the symbol or other indicator of a medical condition which is imprinted on a driver's license to conform with the International Classification of Diseases, ~~[Ninth]~~ Tenth Revision, Clinical Modification, or the ~~[most]~~ current revision, adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services.

3. The Department may apply for and accept any gift, grant, appropriation or other donation to assist in carrying out a program established pursuant to the provisions of this section.

Sec. 16. NRS 483.380 is hereby amended to read as follows:

483.380 1. Except as otherwise provided in NRS ~~[483.247 and]~~ 483.283, every driver's license expires on the fourth anniversary of the licensee's birthday, measured in the case of an original license, a renewal license and a renewal of an expired license, from the birthday nearest the date of issuance or renewal. Any applicant whose date of birth was on February 29 in a leap year is, for the purposes of NRS 483.010 to 483.630, inclusive, considered to have the anniversary of his birth fall on February 28.

2. Every license is renewable at any time before its expiration upon application and payment of the required fee.

3. The Department may, by regulation, defer the expiration of the driver's license of a person who is on active duty in the Armed Forces upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the license of the spouse or a dependent son or daughter of that person if the spouse or child is residing with the person.

Sec. 17. NRS 483.380 is hereby amended to read as follows:

483.380 1. Except as otherwise provided in NRS 483.283 ~~and subsection 7 of NRS 483.290~~, every driver's license expires as prescribed by regulation.

2. The Department shall adopt regulations prescribing when a driver's license expires. The Department may, by regulation, defer the expiration of the driver's license of a person who is on active duty in the Armed Forces upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the license of the spouse or a dependent son or daughter of that person if the spouse or child is residing with the person.

Sec. 18. NRS 483.390 is hereby amended to read as follows:

483.390 1. Whenever any person, after applying for or receiving a driver's license, moves from the address named in the application ~~for~~ and in the license issued to him, or when the name of a licensee is changed, that person shall within 30 days thereafter ~~notify~~ *provide notice and present satisfactory evidence to the Department of his new and old addresses, or of such former and new names. ~~and of the number of any license then held by him.~~*

2. *The Department shall adopt regulations setting forth the requirements and acceptable methods for providing to the Department notice and satisfactory evidence of the licensee's new address or name, as applicable.*

Sec. 19. NRS 483.400 is hereby amended to read as follows:

483.400 1. ~~The~~ *Except as otherwise provided in subsection 2, the Department shall maintain ~~files~~, for at least 10 years, digital images of applications for licenses. Such ~~files shall~~ images must contain:*

(a) All applications denied and, on each thereof, a note regarding the reasons for ~~such~~ the denial.

(b) All applications granted.

(c) The name of every licensee whose license has been suspended or revoked by the Department and, after each such name, a note regarding the reasons for such action.

(d) *Except as otherwise provided in subsection 3, the documents that an applicant for a driver's license furnished pursuant to NRS 483.290 to prove:*

(1) *His name, age and address of principal residence;*

(2) *His social security number or that he is not eligible to receive a social security number; and*

(3) *That he is lawfully entitled to live in the United States.*

2. *The requirements of subsection 1 do not apply to an application for a driver's license that is issued by the Department pursuant to subsection 3 of NRS 483.340.*

3. If an applicant for a driver's license furnished his birth certificate pursuant to NRS 483.290, upon request of the licensee the Department shall record and retain the information from the birth certificate in lieu of maintaining a digital image of the birth certificate.

4. The Department shall ~~also~~ file all accident reports and abstracts of court records of convictions received by it under the laws of this State ~~and~~ and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of ~~such~~ the licensee and the traffic accidents in which he was involved shall be readily ascertainable and available for the consideration of the Department upon any application for renewal of license and at other suitable times.

Sec. 20. NRS 483.410 is hereby amended to read as follows:

483.410 1. Except as otherwise provided in subsection 6 and NRS 483.417, for every driver's license, including a motorcycle driver's license, issued and service performed, the following fees must be ~~charged~~ paid upon application:

An original or renewal license issued to a person 65 years of age or older.....	\$13.50
An original or renewal license issued to any person less than 65 years of age	18.50
Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385	40.00
Reinstatement of a license after revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385	65.00
A new photograph, change of name, change of other information, except address, or any combination	5.00
A duplicate license.....	14.00

2. For every motorcycle endorsement to a driver's license, a fee of \$5 must be charged.

3. If no other change is requested or required, the Department shall not charge a fee to convert the number of a license from the licensee's social security number, or a number that was formulated by using the licensee's social security number as a basis for the number, to a unique number that is not based on the licensee's social security number.

4. Except as otherwise provided in NRS 483.417, the increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.

5. A penalty of \$10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.

6. The Department may not charge a fee for the reinstatement of a driver's license that has been:

- (a) Voluntarily surrendered for medical reasons; or
- (b) Cancelled pursuant to NRS 483.310.

7. All fees and penalties are payable to the Administrator at the time *a person applies for a license or a renewal license*. ~~is issued.~~

8. Except as otherwise provided in NRS 483.340, subsection 3 of NRS 483.3485, NRS 483.415 and 483.840, and subsection 3 of NRS 483.863, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

Sec. 21. NRS 483.820 is hereby amended to read as follows:

483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, *and section 4 of this act* and who is not ineligible to receive an identification card pursuant to NRS 483.861 ~~is~~ is entitled to receive an identification card if he is:

(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or

(b) A seasonal resident who does not hold a valid Nevada driver's license.

2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees ~~for the issuance of~~ *upon application* for an original, duplicate or changed identification card:

An original or duplicate identification card issued to a person	
65 years of age or older.....	\$4
An original or duplicate identification card issued to a person	
under 18 years of age.....	3
A renewal of an identification card for a person under	
18 years of age.....	3
An original or duplicate identification card issued to any	
other person	9
A renewal of an identification card for any person at least	
18 years of age, but less than 65 years of age	9
A new photograph or change of name, or both	4

3. The Department shall not charge a fee for:

(a) An identification card issued to a person who has voluntarily surrendered his driver's license pursuant to NRS 483.420; or

(b) A renewal of an identification card for a person 65 years of age or older.

4. Except as otherwise provided in NRS 483.825, the increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 22. NRS 483.830 is hereby amended to read as follows:

483.830 1. The Director shall:

~~1.~~ (a) Prepare suitable identification cards.

~~2.~~ (b) Prepare and furnish application forms for ~~those~~ identification cards.

~~3.~~ (c) Receive applications ~~for~~ for identification cards and grant or deny them. ~~and maintain files of applications.~~

~~4.~~ (d) Issue identification cards ~~for~~ and recall and cancel cards when necessary. ~~and maintain records adequate to preserve the integrity of the system~~

(e) Except as otherwise provided in subsection 2, maintain, for at least 10 years, digital images of applications for identification cards. Such images must contain:

(1) All applications denied and, on each thereof, a note regarding the reasons for the denial.

(2) All applications granted.

(3) The name of every holder of an identification card whose card has been recalled or cancelled by the Department and, after each such name, a note regarding the reasons for such action.

(4) The documents that an applicant furnished pursuant to NRS 483.860 to prove:

(I) His name, age and principal address;

(II) His social security number or that he is not eligible to receive a social security number; and

(III) That he is lawfully entitled to live in the United States.

2. If an applicant for an identification card furnished his birth certificate pursuant to NRS 483.860, upon request of the applicant the Department shall record and retain the information from the birth certificate in lieu of maintaining a digital image of the birth certificate.

Sec. 23. NRS 483.840 is hereby amended to read as follows:

483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.

2. Identification cards do not authorize the operation of any motor vehicles.

3. Identification cards must include the following information concerning the holder:

(a) The name and sample signature of the holder.

(b) A unique identification number assigned to the holder that is not based on the holder's social security number.

(c) A personal description of the holder.

(d) The date of birth of the holder.

(e) The current address of the holder in this State.

(f) A colored photograph of the holder.

4. The information required to be included on the identification card pursuant to subsection 3 must be placed on the card in the manner specified in subsection 1 of NRS 483.347.

5. At the time of the issuance or renewal of the identification card, the Department shall:

(a) Give the holder the opportunity to have indicated on his identification card that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to indicate whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) ~~If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give~~ Give the holder the opportunity to have a symbol or other indicator of a medical condition, *as prescribed by regulations of the Department pursuant to NRS 483.863*, imprinted on his identification card.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

8. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 24. NRS 483.840 is hereby amended to read as follows:

483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.

2. Identification cards do not authorize the operation of any motor vehicles.

3. The Department shall adopt regulations prescribing the information that must be contained on an identification card. *The regulations adopted pursuant to this subsection must not conflict with the regulations adopted pursuant to section 4 of this act.*

4. At the time of the issuance or renewal of the identification card, the Department shall:

(a) Give the holder the opportunity to have indicated on his identification card that he wishes to be a donor of all or part of his body pursuant to

NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to indicate whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) ~~[If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give]~~ Give the holder the opportunity to have a symbol or other indicator of a medical condition, *as prescribed by regulations of the Department pursuant to NRS 483.863*, imprinted on his identification card.

5. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

6. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 4 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 25. NRS 483.850 is hereby amended to read as follows:

483.850 1. Every application for an identification card must be made upon a form provided by the Department and include, without limitation:

- (a) The applicant's full legal name.
- (b) His date of birth.
- (c) His state of legal residence.
- (d) His current address of principal residence and mailing address, if different from his address of principal residence, in this State, unless the applicant is on active duty in the military service of the United States.
- (e) A statement from:

(1) A resident stating that he does not hold a valid driver's license or identification card from any state or ~~[jurisdiction,]~~ *territory of the United States*; or

(2) A seasonal resident stating that he does not hold a valid Nevada driver's license.

(f) *Such other information as the Department may require to determine the eligibility of the applicant.*

2. When the form is completed, the applicant must sign the form and ~~[verify the contents]~~ *affirm, under penalty of perjury* before a person authorized to administer oaths ~~[~~

~~3. An applicant who has been issued a social security number must provide to the Department for inspection:~~

~~(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~(b) Other proof acceptable to the Department bearing the social security number of the applicant, including, without limitation, records of employment or federal income tax returns.~~

~~4.}, that the information contained in the application is true and correct.~~

3. At the time of applying for an identification card, an applicant may, if eligible, register to vote pursuant to NRS 293.524.

~~{5.}~~ 4. A person who possesses a driver's license or identification card issued by another state or ~~{jurisdiction}~~ *territory of the United States* who wishes to apply for an identification card pursuant to this section shall surrender to the Department the driver's license or identification card issued by the other state or ~~{jurisdiction}~~ *territory* at the time he applies for an identification card pursuant to this section. *If the person surrenders to the Department a license or identification card issued to him by another state or territory of the United States other than the State of Nevada, the Department shall notify that other state or territory of the surrender.*

Sec. 26. NRS 483.860 is hereby amended to read as follows:

483.860 1. Every applicant for an identification card must furnish ~~{proof}~~ *to the Department:*

(a) Proof of his full legal name and age by presenting an original or certified copy of the required documents as prescribed by regulation.

(b) Proof of his address of principal residence by displaying at least two of the required documents as prescribed by regulation.

(c) Proof of his social security number or proof that he is not eligible to receive a social security number, as prescribed by regulation.

(d) Proof that he is lawfully entitled to live in the United States as prescribed by regulation.

2. *The Department may issue an identification card to an applicant who does not have the documents or other forms of proof otherwise required by subsection 1 if the applicant meets the requirements prescribed by the Director by regulation. ~~{An identification card issued pursuant to this subsection must be different in form and distinguishable in color or distinguishable in some other manner from an identification card that satisfies the requirements of the federal Real ID Act of 2005, 49 U.S.C. § 20301.}~~ The Director may adopt such regulations as he determines to be necessary or convenient to carry out the provisions of this subsection.*

3. The Director shall adopt regulations:

(a) Prescribing the documents and other forms of proof that an applicant may use to ~~{furnish proof of his full legal name and age}~~ prove to the Department ~~{;} the matters described in subsection 1;~~ and

(b) Setting forth criteria pursuant to which the Department will issue or refuse to issue an identification card in accordance with this section to a

person who is a citizen of ~~for~~ any state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department ~~shall~~ will issue or refuse to issue an identification card to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.

~~3.~~ 4. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an identification card. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.

Sec. 27. NRS 483.863 is hereby amended to read as follows:

483.863 1. The Department ~~may~~ shall adopt regulations establishing a program for the imprinting of a symbol or other indicator of a medical condition on an identification card issued by the Department.

2. Regulations adopted pursuant to subsection 1 must require the symbol or other indicator of a medical condition which is imprinted on an identification card to conform with the International Classification of Diseases, ~~Ninth~~ Tenth Revision, Clinical Modification, or the ~~most~~ current revision, adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services.

3. The Department may apply for and accept any gift, grant, appropriation or other donation to assist in carrying out a program established pursuant to the provisions of this section.

Sec. 28. NRS 483.865 is hereby amended to read as follows:

483.865 1. Upon the application of a person with a disability which limits or impairs the ability to walk, the Department shall place on any identification card issued to the person pursuant to NRS 483.810 to 483.890, inclusive, *and section 2 of this act* a designation that the person is a person with a disability. The application must include a statement from a licensed physician certifying that the applicant is a person with a disability which limits or impairs the ability to walk.

2. For the purposes of this section, "person with a disability which limits or impairs the ability to walk" has the meaning ascribed to it in NRS 482.3835.

Sec. 29. NRS 483.902 is hereby amended to read as follows:

483.902 The provisions of NRS 483.900 to 483.940, inclusive, *and section 5 of this act* apply only with respect to commercial drivers' licenses.

Sec. 30. NRS 483.904 is hereby amended to read as follows:

483.904 As used in NRS 483.900 to 483.940, inclusive, *and section 5 of this act*, unless the context otherwise requires:

1. "Commercial driver's license" means a license issued to a person which authorizes him to drive a class or type of commercial motor vehicle.

2. "Commercial Driver's License Information System" means the information system maintained by the Secretary of Transportation pursuant to 49 U.S.C. § 31309 to serve as a clearinghouse for locating information

relating to the licensing, identification and disqualification of operators of commercial motor vehicles.

3. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

Sec. 31. NRS 483.908 is hereby amended to read as follows:

483.908 The Department shall adopt regulations:

1. Providing for the issuance, expiration, renewal, suspension, revocation and reinstatement of commercial drivers' licenses;

2. Providing the same exemptions allowed pursuant to federal regulations for farmers, firefighters, military personnel or any other class of operators or vehicles for which exemptions are authorized by federal law or regulations;

3. Specifying the violations which constitute grounds for disqualification from driving a commercial motor vehicle and the penalties associated with each violation;

4. Setting forth a schedule of various alcohol concentrations and the penalties which must be imposed if those concentrations are detected in the breath, blood, urine or other bodily substances of a person who is driving, operating or is in actual physical control of a commercial motor vehicle; and

5. Necessary to enable it to carry out the provisions of NRS 483.900 to 483.940, inclusive ~~{,}~~, and section 5 of this act.

↪ The Department shall not adopt regulations which are more restrictive than the federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986, as amended, 49 U.S.C. chapter 313 (§§ 31301 et seq.). *The regulations adopted pursuant to this section must not conflict with the regulations adopted pursuant to section 5 of this act or the requirements of the federal Real ID Act of 2005, 49 U.S.C. § 30301.*

Sec. 32. NRS 483.910 is hereby amended to read as follows:

483.910 1. The Department shall charge and collect the following fees

~~For an~~ upon application for an original, duplicate or changed commercial driver's license:

An original commercial driver's license which requires the Department to administer a driving skills test.....\$84

~~{For an}~~ An original commercial driver's license which does not require the Department to administer a driving skills test..... 54

~~{For renewal}~~ Renewal of a commercial driver's license which requires the Department to administer a driving skills test 84

~~{For renewal}~~ Renewal of a commercial driver's license which does not require the Department to administer a driving skills test..... 54

~~{For reinstatement}~~ Reinstatement of a commercial driver's license after suspension or revocation of the license for a violation of NRS 484.379, 484.3795, 484.37955 or

484.379778, or pursuant to NRS 484.384 and 484.385, or pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii)	84
[For reinstatement] <i>Reinstatement</i> of a commercial driver's license after suspension, revocation, cancellation or disqualification of the license, except a suspension or revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385, or pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii)	54
[For the] <i>The</i> transfer of a commercial driver's license from another jurisdiction, which requires the Department to administer a driving skills test	84
[For the] <i>The</i> transfer of a commercial driver's license from another jurisdiction, which does not require the Department to administer a driving skills test.....	54
[For a] A duplicate commercial driver's license	19
[For any] Any change of information on a commercial driver's license	9
[For each] <i>Each</i> endorsement added after the issuance of an original commercial driver's license	14
[For the] <i>The</i> administration of a driving skills test to change any information on, or add an endorsement to, an existing commercial driver's license	30

2. The Department shall charge and collect an annual fee of \$555 from each person who is authorized by the Department to administer a driving skills test pursuant to NRS 483.912.

3. An additional charge of \$3 must be charged for each knowledge test administered to a person who has twice failed the test.

4. An additional charge of \$25 must be charged for each driving skills test administered to a person who has twice failed the test.

5. The increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

6. The Department shall charge an applicant for a hazardous materials endorsement an additional fee for the processing of fingerprints. The Department shall establish the additional fee by regulation, except that the amount of the additional fee must not exceed the sum of the amount charged by the Central Repository for Nevada Records of Criminal History and each applicable federal agency to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. § 5103a.

Sec. 33. NRS 483.928 is hereby amended to read as follows:

483.928 1. A person who wishes to be issued a commercial driver's license by this State must:

~~{1-}~~ (a) Apply to the Department for a commercial driver's license;
~~{2-}~~ (b) In accordance with standards contained in regulations adopted by the Department:
~~{(a)}~~ (1) Pass a knowledge test for the type of motor vehicle he operates or expects to operate; and
~~{(b)}~~ (2) Pass a driving skills test for driving a commercial motor vehicle taken in a motor vehicle which is representative of the type of motor vehicle he operates or expects to operate;
~~{3-}~~ (c) Comply with all other requirements contained in the regulations adopted by the Department pursuant to *this section* and NRS 483.908;
~~{4-}~~ (d) Not be ineligible to be issued a commercial driver's license pursuant to NRS 483.929; and

~~{5-}~~ (e) For the issuance of a commercial driver's license with an endorsement for hazardous materials, submit a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History and all applicable federal agencies to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. § 5103a.

2. *Every applicant for a commercial driver's license must furnish to the Department:*

(a) *Proof of his full legal name and age by displaying an original or certified copy of the required documents as prescribed by regulation.*

(b) *Proof of his address of principal residence by displaying at least two of the required documents as prescribed by regulation.*

(c) *Proof of his social security number as prescribed by regulation.*

(d) *Proof that he is lawfully entitled to live in the United States as prescribed by regulation.*

3. *The Department shall adopt regulations prescribing the documents and other forms of proof that an applicant may use to prove to the Department the matters described in subsection 2.*

4. *The Department may issue a commercial driver's license to an applicant who does not have the documents or other forms of proof otherwise required by subsection 2 if the applicant meets the requirements prescribed by the Director by regulation. ~~{A commercial driver's license issued pursuant to this subsection must be different in form and distinguishable in color or distinguishable in some other manner from a commercial driver's license that satisfies the requirements of the federal Real ID Act of 2005, 49 U.S.C. § 30301.}~~ The Director may adopt such regulations as he determines to be necessary or convenient to carry out the provisions of this subsection.*

5. *Except as otherwise provided in subsection 6, the Department shall maintain, for at least 10 years, digital images of applications for commercial drivers' licenses. Such images must contain:*

(a) *All applications denied and, on each thereof, a note regarding the reasons for the denial.*

(b) *All applications granted.*

(c) *The name of every holder of a commercial driver's license whose commercial driver's license has been suspended or revoked by the Department and, after each such name, a note regarding the reasons for such action.*

(d) *The documents that an applicant furnished pursuant to subsection 2 to prove:*

(1) *His name, age and principal address;*

(2) *His social security number; and*

(3) *That he is lawfully entitled to live in the United States.*

6. *If an applicant for a commercial driver's license furnished his birth certificate pursuant to subsection 2, upon request of the applicant, the Department shall record and retain the information from the birth certificate in lieu of maintaining a digital image of the birth certificate.*

Sec. 34. NRS 484.077 is hereby amended to read as follows:

484.077 "License to drive a motor vehicle" means any license or permit to drive a motor vehicle issued under the laws of this State, including:

1. Any temporary license, *license issued pursuant to paragraph (b) of subsection 7 of NRS 483.290* or instruction permit.

2. The privilege of any person to drive a motor vehicle whether or not ~~such~~ the person holds a valid license.

3. Any nonresident's driving privilege.

Sec. 35. Section 48.5 of chapter 486, Statutes of Nevada 2007, at page 2813, is hereby amended to read as follows:

Sec. 48.5. ~~1-~~ The regulations adopted by the Department of Motor Vehicles or the Director of the Department pursuant to:

~~(a)~~ 1. Subsections 1 and 3 of NRS 481.052, as amended by section 1 of this act;

~~(b)~~ 2. Subsection 3 of NRS 483.290, as amended by section 1 of this act;

~~(c)~~ 3. Subsection 2 of NRS 483.340, as amended by section 4 of this act;

~~(d)~~ 4. Subsection 2 of NRS 483.380, as amended by section 5 of this act;

~~(e)~~ 5. Subsection 3 of NRS 483.840, as amended by section 13 of this act;

~~(f)~~ 6. Subsection 2 of NRS 483.860, as amended by section 15 of this act;

~~(g)~~ 7. Subsection 2 of NRS 483.875, as amended by section 16 of this act;

~~(h)~~ 8. Subsections 4 and 8 of NRS 486.081, as amended by section 40 of this act; and

~~{(i)}~~ 9. Subsection 2 of NRS 486.161, as amended by section 41 of this act,

↪ must be consistent with the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005, Public Law 109-13, Division B, Title II, 119 Stat. 311, 49 U.S.C. § 30301.

~~{2. The regulations of the Department of Motor Vehicles or the Director of the Department specified in subsection 1 must not become effective until the later of:~~

~~(a) May 11, 2008;~~

~~(b) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or~~

~~(c) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.]~~

Sec. 36. Section 49 of chapter 486, Statutes of Nevada 2007, at page 2814, is hereby amended to read as follows:

Sec. 49. 1. This section and section 48.5 of this act become effective upon passage and approval.

2. Sections 1 to 7, inclusive, 9 to 41, inclusive, 43, 44, 45 and 48 of this act become effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act. For all other purposes:

(a) Sections 3, 6, 7, 9 to 12, inclusive, 17 to 39, inclusive, and 43, 44, 45 and 48 of this act become effective on October 1, 2007; and

(b) Sections 1, 2, 4, 5, 13 to 16, inclusive, 40 and 41 of this act become effective ~~[upon the later of:~~

~~(1) May 11, 2008;~~

~~(2) The effective date of } on January 1, 2010. f, or~~

~~(2) The date that the State is required to be in material compliance with the provisions of the Real ID Act of 2005, as prescribed by the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005. } [;~~
or

~~(3) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.]~~

3. Sections 7 and 41 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

↪ are repealed by the Congress of the United States.

4. Sections 8 and 42 of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

↪ are repealed by the Congress of the United States.

5. Sections 21 and 22 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

6. Sections 46 and 47 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

Sec. 37. NRS 483.081 and 483.082 are hereby repealed.

Sec. 38. The regulations adopted by the Department of Motor Vehicles or the Director of the Department pursuant to:

1. Sections 3, 4 and 5 of this act;
2. NRS 483.290, as amended by section 11 of this act;
3. NRS 483.3485, as amended by section 15 of this act;
4. NRS 483.390, as amended by section 18 of this act;
5. NRS 483.850, as amended by section 25 of this act;
6. NRS 483.860, as amended by section 26 of this act;
7. NRS 483.863, as amended by section 27 of this act;
8. NRS 483.908, as amended by section 31 of this act; and
9. NRS 483.928, as amended by section 33 of this act,

↪ must be consistent with the regulations issued by the Secretary of Homeland Security to implement the provisions of the federal Real ID Act of 2005, Public Law 109-13, Division B, Title II, 119 Stat. 311, 49 U.S.C. § 30301.

Sec. 39. 1. This section and sections 1, 9, 12, 14, 15, 16, 23, 27 and 35 to 38, inclusive, of this act become effective upon passage and approval.

2. Sections 2 to 8, inclusive, 10, 11, 13, and 17 to 22, inclusive, 24, 25, 26 and 28 to 34, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act.

(b) For all other purposes, ~~upon the later of~~ *at* 12:01 a.m. on ~~the~~

~~(1) January 1, 2010, or~~

~~(2) The date that the State is required to be in material compliance with the provisions of the Real ID Act of 2005, as prescribed by the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005.~~

TEXT OF REPEALED SECTIONS

483.081 "International instructor" defined. "International instructor" means a person:

1. Who is at least 18 years of age;
2. Whose legal residence is not in this State;
3. Who comes into this State to teach at an educational institution for an indefinite period; and
4. Who may declare himself to be a resident of this State for the limited purpose of obtaining a driver's license or identification card.

483.082 "International student" defined. "International student" means a student:

1. Who is at least 18 years of age;
2. Whose legal residence is not in this State;
3. Who comes into this State to attend an educational institution for an indefinite period; and
4. Who may declare himself to be a resident of this State for the limited purpose of obtaining a driver's license or identification card.

Senator Horsford moved the adoption of the amendment.

Senator Lee moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 7:49 p.m.

SENATE IN SESSION

At 8:09 p.m.

President Krolicki presiding.

Quorum present.

Senator Horsford moved that Senate Bill No. 52 be taken from General File and rereferred to the Committee on Finance.

Motion carried.

Mr. President:

The Conference Committee concerning Senate Bill No. 332, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 745 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 16, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing the use and taxation of ~~alternative~~ certain fuels ~~and clean vehicles~~ (BDR 43-1147)"

"AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; providing for the taxation of ethanol and methanol as motor vehicle fuels and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) Section 4 revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) Section 5 revises the definition of "fleet" to limit the applicability of sections 1-11 to a fleet of 50 or more motor vehicles which are registered in the same county and which are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) Section 6 excludes certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of sections 1-11. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use alternative fuels by persons who are not subject to the requirements of sections 1-11 of this bill. (NRS 486A.200)

Existing law provides for the taxation of certain motor vehicle fuels, including gasoline. (NRS 365.060, 365.175-365.192) Section 20 of this bill includes ethanol and methanol within the definition of "motor vehicle fuel" and thereby requires ethanol and methanol to be taxed in the same manner and at the same rate as gasoline. In addition, the inclusion of ethanol and methanol as motor vehicle fuels will subject dealers, suppliers, exporters and transporters of ethanol and methanol to the same requirements and penalties currently applicable to dealers, suppliers, exporters and transporters of gasoline, including, without limitation, requirements concerning licensing, bonding, recordkeeping and the collection and payment of taxes. (NRS 365.270, 365.290, 365.322, 365.324, 365.330, 365.500-365.530, 365.570-365.605) Sections 17 and 18 of this bill authorize the Department of Motor Vehicles to take certain administrative action against a person licensed pursuant to chapter 365 of NRS or a person who acts as a motor vehicle fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances.

Existing law provides for the taxation of certain special fuels for motor vehicles, including any combustible gas or liquid other than the fuels which are taxed as motor vehicle fuels pursuant to chapter 365 of NRS, and any emulsion of water-phased hydrocarbon fuel used in a motor vehicle. (NRS 366.060, 366.190, 366.195) Sections 23, 24 and 29 of this bill provide for the taxation of biodiesel and blends of biodiesel and a petroleum-based product as special fuels.

Section 25 of this bill defines a "special fuel manufacturer" as a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State. Section 30 of this bill exempts a special fuel manufacturer from regulation as a special fuel supplier. Section 33 of this bill prohibits a person from acting as a special fuel manufacturer without first obtaining a license from the Department of Motor Vehicles. The Department is authorized to adopt regulations relating to the issuance of a license to a special fuel manufacturer and to collect fees for the issuance of such a license.

Sections 40 and 41 of this bill require a special fuel manufacturer to file tax returns with the Department in the same manner as a special fuel dealer. Section 42 of this bill requires a special fuel manufacturer to pay the taxes on special fuels imposed by chapter 366 of NRS. Section 26 of this bill requires a special fuel manufacturer to submit certain monthly reports to the Department. Section 36 of this bill provides that the Department must require a special fuel manufacturer who is habitually delinquent in the payment of special fuel taxes to execute a bond payable to the State in an amount of not less than \$2,500. Section 43 of this bill requires a special fuel manufacturer to keep certain records as required by the Department.

Sections 27 and 46 of this bill authorize the Department to take certain administrative action against a person licensed pursuant to chapter 366 of NRS or a person who acts as special fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances. A special fuel manufacturer or any other person who makes a false or fraudulent report with the intent to evade the taxes imposed pursuant to chapter 366 of NRS is guilty of a gross misdemeanor. (NRS 366.710) A special fuel manufacturer who violates any other provision of chapter 366 of NRS as amended by this bill is guilty of a misdemeanor. (NRS 366.720, 366.730)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

"Clean vehicle" means any motor vehicle which complies with the specifications for clean vehicles established by the Commission.

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~{Protection of the}~~ The State's environment, particularly the quality of its air, ~~{requires a reduction.} {can} may be improved, especially in metropolitan areas, {of the contaminants resulting from the combustion of conventional fuels in motor} through the use of alternative fuels and clean vehicles.~~

2. A very large proportion of ~~{these}~~ air contaminants ~~{results}~~ result from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~{~~

3. ~~Conversion of these fleets to use cleaner burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor}, and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.~~

3. Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements for alternative fuel established by the Commission. ~~{The term includes:~~

1. Reformulated gasoline; and

2. Finished diesel fuel that:

(a) Meets ASTM International specification D975; and

(b) Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751;

~~which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.} The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410.~~

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~40~~ 50 or more motor vehicles ~~that~~ which are registered in the same county and which are under the common control of and owned, leased or operated by ~~the State or a local governing body. The term includes fleets that are used by the State,~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. Farm tractor as defined in NRS 482.035;
2. Moped as defined in NRS 482.069; ~~and~~
3. Motorcycle as defined in NRS 482.070 ~~;~~ and
4. Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers.

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.
2. Any governmental agency exempted by federal statute or regulation.
3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act, including, ~~but not limited to,~~ without limitation, regulations concerning:

1. Standards and requirements for alternative fuel. ~~{The Commission shall}~~ In establishing standards and requirements for alternative fuel, the Commission:

(a) Must consider fuels that are recognized by the Environmental Protection Agency, ~~and~~ and the Department of Energy ~~{and the California Air Resources Board}~~ to improve air quality or reduce harmful air emissions.

(b) Shall not discriminate against any product that is petroleum based.

2. Specifications for clean vehicles and motor vehicles that use alternative fuels. To the extent practicable and appropriate, the specifications established by the Commission must be consistent with the specifications established by the Environmental Protection Agency, ~~and~~ and the Department of Energy ~~{and the California Air Resources Board}~~ for the vehicle category and year of manufacture.

3. The ~~{conversion of fleets to use alternative fuels if the}~~ acquisition of clean vehicles and motor vehicles that use alternative fuels by a fleet that is operated in a county whose population is 100,000 or more ~~;~~

3. ~~Standards for alternative fuel injection systems for diesel motor vehicles.~~ , including, without limitation, recordkeeping and reporting requirements concerning such vehicles.

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving variances or exemptions to the requirements of NRS 486A.010 to 486A.180, inclusive ~~;~~

6. ~~Standards related to the use of dedicated alternative fuel motor vehicles.~~ , and section 1 of this act. The Commission may approve a variance or exemption based upon:

(a) A determination by the Commission that compliance with the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act:

(1) Would void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;

(2) Would result in financial hardship to the owner or operator of a fleet; or

(3) Is impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or

(b) Any other reason which the Commission determines is appropriate.

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

- (a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~+~~, *and section 1 of this act*;
- (b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~+~~, *and section 1 of this act*; and
- (c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~+~~, *and section 1 of this act*.

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~10 or more~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and any regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~10 or more~~ motor vehicles shall not:

- (a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.
- (b) Obstruct, hamper or interfere with any such inspection.

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than \$1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* or any regulation ~~in force~~ adopted pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and any regulations ~~in force~~ adopted pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

4. A person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to a person found by the court to be indigent.

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* to ~~use clean burning fuel in motor vehicles.~~ *acquire clean vehicles and motor vehicles that use alternative fuels.* The program may include, without limitation, a method of educating the members of the general public concerning:

- (a) The program administered by the Department; and
- (b) The benefits of using ~~clean burning fuel in~~ *clean vehicles and motor vehicles* ~~+~~ *that use alternative fuels.*

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. § 490.2.]~~

"Clean vehicle" has the meaning ascribed to it in section 1 of this act.

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. (Deleted by amendment.)

Sec. 14. Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 18, inclusive, of this act.

Sec. 15. "Ethanol" means denatured ethyl alcohol produced for use as a fuel.

Sec. 16. "Methanol" means anhydrous methyl alcohol produced for use as a fuel.

Sec. 17. 1. The Department may take disciplinary action in accordance with subsection 2 against any person who, below the terminal rack:

(a) Sells or stores for personal consumption any motor vehicle fuel for a use which the person selling or storing the fuel knows, or has reason to know, is a taxable use of the fuel and does not report and pay the applicable tax to the Department;

(b) Willfully alters the volume or composition of any motor vehicle fuel which is intended for a taxable use and does not report and pay the applicable tax to the Department; or

(c) Sells motor vehicle fuel which the person selling the fuel knows, or has reason to know, is formulated in a manner that violates any provision of state or federal law governing standards for the formulation of motor vehicle fuel.

2. For any violation described in subsection 1, the Department may:

(a) For a first violation within 4 years, impose an administrative fine of not more than \$2,500 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 30 days;

(b) For a second violation within 4 years, impose an administrative fine of not more than \$5,000 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 60 days; and

(c) For a third or subsequent violation within 4 years, impose an administrative fine of not more than \$10,000 and revoke any license issued to the person pursuant to the provisions of this chapter.

Sec. 18. 1. If the Department determines through an audit that a retailer has sold motor vehicle fuel which substantially exceeds the ethanol tolerance for motor vehicle fuel prescribed by federal law, the Department may:

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than \$1,000 on the retailer and the supplier of the motor vehicle fuel. The total fines imposed on a person pursuant to this paragraph must not exceed \$100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than \$2,500 on the retailer and the supplier of the motor vehicle fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed \$250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than \$5,000 on the retailer and the supplier of the motor vehicle fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed \$500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a motor vehicle fuel contains a concentration of alcohol or is formulated in a manner which exceeds the standards for the formulation of motor vehicle fuel established by federal law in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of motor vehicle fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 19. *NRS 365.010 is hereby amended to read as follows:*

365.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 365.015 to 365.092, inclusive, and sections 15 and 16 of this act have the meanings ascribed to them in those sections.

Sec. 20. *NRS 365.060 is hereby amended to read as follows:*

365.060 "Motor vehicle fuel" means gasoline, natural gasoline, casing-head gasoline, methanol, ethanol or any other inflammable or combustible liquid, regardless of the name by which the liquid is known or sold, the chief use of which in this State is for the propulsion of motor vehicles, motorboats or aircraft other than jet or turbine-powered aircraft. The term does not include kerosene, gas oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel, biodiesel, biodiesel blend, liquefied petroleum gas and an emulsion of water-phased hydrocarbon fuel, as that term is defined in NRS 366.026.

Sec. 21. *NRS 365.600 is hereby amended to read as follows:*

365.600 1. ~~(The)~~ Except as otherwise provided in sections 17 and 18 of this act, the Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person ~~who~~ fined pursuant to this section or section 17 or 18 of this act an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

~~(2)~~ 3. All administrative fines collected by the Department pursuant to subsection 1 or section 17 or 18 of this act must be deposited with the State Treasurer to the credit of the State Highway Fund.

~~(3)~~ 4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 22. *Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to 27, inclusive, of this act.*

Sec. 23. *"Biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.*

Sec. 24. *"Biodiesel blend" means a blend of biodiesel and a petroleum-based product suitable for use as a fuel in a motor vehicle.*

Sec. 25. *"Special fuel manufacturer" means a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State.*

Sec. 26. *Each special fuel manufacturer shall, not later than the last day of each month, submit to the Department a written report which sets forth:*

1. *The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded in this State;*

2. *The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded for personal use in this State;*

3. *The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or delivered in this State;*

4. *The name and mailing address of each person to whom the special fuel manufacturer sold or delivered special fuel containing biodiesel or biodiesel blend in this State; and*

5. *The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or distributed to each person described in subsection 4.*

Sec. 27. 1. *If the Department determines through an audit that a retailer has sold special fuel containing biodiesel or biodiesel blend which substantially exceeds the biodiesel tolerance for the biodiesel blend posted by the retailer, the Department may:*

(a) *For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than \$1,000 on the retailer and the supplier of*

the special fuel. The total fines imposed on a person pursuant to this paragraph must not exceed \$100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than \$2,500 on the retailer and the supplier of the special fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed \$250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than \$5,000 on the retailer and the supplier of the special fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed \$500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a special fuel contains a biodiesel blend which exceeds the total volume displayed on the special fuel pump in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of special fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 28. NRS 366.020 is hereby amended to read as follows:

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.025 to 366.100, inclusive, *and sections 23, 24 and 25 of this act* have the meanings ascribed to them in those sections.

Sec. 29. NRS 366.060 is hereby amended to read as follows:

366.060 "Special fuel" means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including *, without limitation, biodiesel, biodiesel blend and* an emulsion of water-phased hydrocarbon fuel. The term does not include motor vehicle fuel as defined in chapter 365 of NRS.

Sec. 30. NRS 366.070 is hereby amended to read as follows:

366.070 *1.* "Special fuel supplier" means a person who:

~~1.~~ *(a)* Imports or acquires immediately upon importation into this State special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

~~2.~~ *(b)* Produces, manufactures or refines special fuel in this State; or

~~3.~~ *(c)* Otherwise acquires for distribution in this State special fuel with respect to which there has been no previous taxable sale or use.

2. The term does not include a special fuel manufacturer.

Sec. 31. NRS 366.150 is hereby amended to read as follows:

366.150 *1.* The Department or its authorized agents may:

(a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user *, special fuel manufacturer* or any other person transporting or storing special fuel;

(b) Investigate the character of the disposition which any person makes of special fuel; and

(c) Stop and inspect a motor vehicle that is using or transporting special fuel,

to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.

3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ~~or~~ special fuel user *or special fuel manufacturer* wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the

examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~or~~ special fuel user *or special fuel manufacturer* in any year.

4. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~or~~ special fuel user *or special fuel manufacturer* shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.

Sec. 32. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed ~~and~~ and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~or~~ special fuel user ~~or~~ *or special fuel manufacturer*, and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~or~~ special fuel user ~~or~~ *or special fuel manufacturer*, shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by NRS 239.0115 or by any other law.

Sec. 33. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter:

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter, ~~or~~ special fuel user ~~or~~ *or special fuel manufacturer*, a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter, ~~or~~ special fuel transporter ~~or~~ *or special fuel manufacturer* or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

(6) A special fuel manufacturer without holding a license as a special fuel manufacturer pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any license pursuant to this chapter and the collection of fees therefor.

Sec. 34. NRS 366.221 is hereby amended to read as follows:

366.221 1. Except as otherwise provided in subsection 2, a special fuel user's license is not required of the following classes of special fuel users:

(a) Operators of motor vehicles who make occasional trips into this State for service or repair.

(b) Operators of house coaches as defined in NRS 484.067.

(c) Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

(d) Operators of unladen motor vehicles purchased in this State for the trip from the point of delivery to the state boundary.

(e) Operators of motor vehicles who make occasional trips into or across this State for nonprofit or eleemosynary purposes.

(f) Operators of motor vehicles which are operated exclusively within this State.

2. A person otherwise exempt pursuant to subsection 1 who does not purchase special fuel in this State in an amount commensurate with his consumption of special fuel in the propulsion of motor vehicles on the highways of this State shall secure a special fuel user's license.

Sec. 35. NRS 366.223 is hereby amended to read as follows:

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering ~~the State or immediately upon entering~~ the State. The fee for a temporary permit for special fuel is \$30 and is not refundable.

2. Except as otherwise provided in subsection 3, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

3. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

4. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 36. NRS 366.235 is hereby amended to read as follows:

366.235 1. An applicant for or holder of a license as a special fuel supplier or special fuel dealer shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond or bonds of any holder of such a license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than \$1,000 for a special fuel supplier and must not be less than \$100 for a special fuel dealer. If a special fuel supplier or special fuel dealer is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100.

2. If a special fuel user *or special fuel manufacturer* is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user *or special fuel manufacturer* to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than \$2,500.

3. No recovery on any bond, execution of any new bond or suspension or revocation of any license as a special fuel supplier, special fuel dealer, ~~or~~ special fuel user *or special fuel manufacturer* affects the validity of any bond.

4. In lieu of a bond or bonds, an applicant for or holder of a license as a special fuel supplier or special fuel dealer, or a person required to provide a bond pursuant to subsection 2, may deposit with the State Treasurer, under such terms as the Department may prescribe, an equivalent amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

5. If the holder of a license as a special fuel supplier or special fuel dealer is required to provide a bond of more than \$5,000, the Department may reduce the requirements for the bond to not less than \$5,000 upon the faithful performance of the special fuel supplier or special fuel

dealer of all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

6. The Department shall immediately reinstate the original requirements for a bond for a holder of a license as a special fuel supplier or special fuel dealer upon his:

- (a) Lack of faithful performance of the requirements of this chapter; or
- (b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 37. NRS 366.240 is hereby amended to read as follows:

366.240 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel supplier's or special fuel dealer's license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel exporter's, special fuel transporter's, ~~or~~ special fuel user's or special fuel manufacturer's license.

2. The Department may refuse to issue a license pursuant to this section to any person:

(a) Who formerly held a license issued pursuant to this chapter or a similar license of any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country which, before the time of filing the application, has been revoked for cause;

(b) Who applies as a subterfuge for the real party in interest whose license, before the time of filing the application, has been revoked for cause;

(c) Who, if he is a special fuel supplier or special fuel dealer, neglects or refuses to furnish a bond as required by this chapter;

(d) Who is in default in the payment of a tax on special fuel in this State, any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country;

(e) Who has failed to comply with any provision of this chapter; or

(f) Upon other sufficient cause being shown.

Sec. 38. NRS 366.250 is hereby amended to read as follows:

366.250 Any applicant whose application for a special fuel supplier's license, special fuel dealer's license, special fuel exporter's license, special fuel transporter's license, ~~or~~ special fuel user's license or special fuel manufacturer's license has been denied may petition the Department for a hearing. The Department shall:

1. Grant the applicant a hearing.

2. Provide to the applicant, not less than 10 days before the hearing, written notice of the time and place of the hearing.

Sec. 39. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, ~~or~~ special fuel user or special fuel manufacturer within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user registered under the Interstate Highway User Fee Apportionment Act, file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer ~~or~~ *or special fuel manufacturer*, file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

Sec. 40. NRS 366.370 is hereby amended to read as follows:

366.370 1. Except as otherwise provided in this chapter, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. A special fuel supplier shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.383.

5. A special fuel dealer *or special fuel manufacturer* shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.386.

Sec. 41. NRS 366.386 is hereby amended to read as follows:

366.386 1. On or before the last day of the month following each reporting period, a special fuel dealer *or special fuel manufacturer* shall file with the Department a tax return for the preceding reporting period, regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of this chapter; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. Except as otherwise provided in this subsection, the reporting period for a special fuel dealer *or special fuel manufacturer* is a calendar month. Upon application by a special fuel dealer ~~or~~ *or special fuel manufacturer*, the Department may assign to the special fuel dealer *or special fuel manufacturer* for a specific calendar year:

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer *or special fuel manufacturer* for the preceding calendar year, that the special fuel dealer *or special fuel manufacturer* will sell not more than 200 gallons of special fuel in this State each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer *or special fuel manufacturer* for the preceding calendar year, that the special fuel dealer *or special fuel manufacturer* will sell more than 200 gallons but not more than 500 gallons of special fuel in this State each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer *or special fuel manufacturer* for the preceding calendar year, that the special fuel dealer *or special fuel manufacturer* will sell more than 500 gallons but less than 5,000 gallons of special fuel in this State each calendar month during those reporting periods.

Sec. 42. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers, ~~and~~ special fuel users ~~and~~ *and special fuel manufacturers*. A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him. *The tax paid by a special fuel manufacturer must be computed by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel that the special fuel manufacturer places into or sells for placement into the supply tank of a motor vehicle in this State.*

2. If the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier, special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier, special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.

3. A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.

Sec. 43. NRS 366.685 is hereby amended to read as follows:

366.685 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user, *special fuel manufacturer* and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 44. NRS 366.692 is hereby amended to read as follows:

366.692 1. Each special fuel supplier *or special fuel manufacturer* shall prepare and provide a record of shipment to each person who purchases more than 25 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:

- (a) Place where the special fuel was purchased;
- (b) Place to which the purchaser declares the special fuel will be transported;
- (c) Number of gallons of special fuel transported;
- (d) Color and concentration of the dye added to the special fuel, if any; and
- (e) Name and address of the purchaser of the special fuel.

2. Each person who transports special fuel in this State shall:

- (a) Keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser; and

(b) Upon request from a peace officer, allow the peace officer to inspect the record of shipment.

Sec. 45. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

(a) Fails or refuses to pay the tax imposed by this chapter;

(b) Engages in business in this State as a *special fuel manufacturer*, special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

(c) Fails to make any of the reports required by this chapter;

(d) Makes any false statement in any application, report or statement required by this chapter;

(e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

(f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

(g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

(h) Violates the provisions of NRS 366.265;

(i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

(j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

☛ is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a *special fuel manufacturer*, special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 46. NRS 366.735 is hereby amended to read as follows:

366.735 1. The Department may take disciplinary action in accordance with subsection 2 against any person who ~~is~~, below the terminal rack:

(a) Sells or stores ~~for personal consumption~~ any dyed special fuel for a use which the person selling or storing such fuel knows, or has reason to know, is a taxable use of the fuel ~~is~~ and does not report and pay the applicable tax to the Department;

(b) Willfully ~~alters or attempts to alter the strength of composition~~ decreases or attempts to decrease the concentration of any dye in any special fuel intended to be used for a taxable purpose ~~is or~~ and does not report and pay the applicable tax to the Department;

(c) Uses dyed special fuel for a taxable purpose ~~is~~ and does not report and pay the applicable tax to the Department;

(d) Willfully increases or attempts to increase the volume of any special fuel intended to be used for a taxable purpose by adding to the fuel any quantity of special fuel for which the tax imposed pursuant to this chapter has not been paid or any quantity of other product for which any tax imposed pursuant to the laws of this State has not been paid; or

(e) Willfully manufactures, sells, distributes for sale or attempts to manufacture, sell or distribute for sale any special fuel intended to be used for a taxable purpose and for which the tax imposed pursuant to this chapter has not been paid.

2. For any violation described in subsection 1, the Department may:

(a) If the violation is a first offense, impose an administrative fine of not more than \$2,500 and suspend any license issued to that person pursuant to this chapter for not more than 30 days;

(b) If the violation is a second offense within a period of 4 years, impose an administrative fine of not more than \$5,000 and suspend any license issued to that person pursuant to this chapter for not more than 60 days; and

(c) If the violation is a third or subsequent offense within a period of 4 years, impose an administrative fine of not more than \$10,000 and revoke any license issued to that person pursuant to this chapter.

Sec. 47. NRS 366.740 is hereby amended to read as follows:

366.740 1. Except as otherwise provided in NRS 366.733 and 366.735 ~~and section 27 of this act~~, the Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person fined pursuant to this section or NRS 366.733 or 366.735 *or section 27 of this act* an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 or NRS 366.733 or 366.735 *or section 27 of this act* must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

~~(Sec. 14.)~~ *Sec. 48. 1. NRS 365.072 is hereby repealed.*

2. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

~~(Sec. 15.)~~ *Sec. 49. 1. This section and sections 14 to 47, inclusive, and subsection 1 of section 48 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2010, for all other purposes.*

2. Sections 1 to 12, inclusive, and subsection 2 of section 48 of this act ~~(become)~~ become effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

365.072 "Petroleum-ethanol mixture" defined. "Petroleum-ethanol mixture" means a fuel containing a minimum of 10 percent by volume of ethyl alcohol derived from agricultural products.

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or

2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. § 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

SHIRLEY A. BREEDEN

MICHAEL A. SCHNEIDER

DENNIS NOLAN

Senate Conference Committee

ELLEN B. SPIEGEL

MARILYN DONDERO LOOP

PETE J. GOICOECHEA

Assembly Conference Committee

Senator Breeden moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 332.

Conflict of interest declared by Senator Raggio.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

One page 15 of the Conference Committee Amendment, line 18 delineates the number of gallons so the problem with the smaller users should be addressed with that language on 200 gallons. It is fine to process the bill.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Raggio, Rhoads and Lee as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 263.

President Krolicki appointed Senators Wiener, Care and Cegavske as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 293.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that vetoed Senate Bills Nos. 363, 394, 319, 378 and 195; Assembly Bills Nos. 246 and 410 of the 75th Session be made a Special Order of Business for Sunday, May 31, 2009 at 8:30 p.m.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 8:14 p.m.

SENATE IN SESSION

At 8:30 p.m.

President Krolicki presiding.

Quorum present.

SPECIAL ORDERS OF THE DAY

VETO MESSAGES OF THE GOVERNOR

The hour of 8:30 p.m. having arrived, Vetoed Senate Bills No. 363, 394, 319, 378, 195; Assembly Bills Nos. 246 and 410 of the 75th Session were considered.

Vetoed Senate Bill No. 363 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*

Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 363, which is entitled:

AN ACT relating to industrial insurance; authorizing the surviving spouse of a deceased employee to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto.

Senate Bill 363 would eliminate the section of state law that terminates workers compensation death benefit payments when surviving spouses get remarried, continuing those payments in perpetuity. While everyone can empathize with someone whose spouse dies while on the job, the death benefit payments outlined in workers compensation coverage are not intended to compensate that surviving spouse for their loss. Instead, that death benefit is meant to ensure the surviving spouse is able to sustain his or her livelihood and continue living in a lifestyle similar to the one they grew accustomed to during their marriage.

While there is no way to make up for the loss of a spouse, the decision to remarry marks a significant change in lifestyle for that individual. Existing law was structured recognizing this change and ends death benefit payments appropriately, including a one-time, lump sum payment worth two years' benefits to provide a cushion for the surviving spouse. Nothing has changed that alters the reasoning that went into existing law for death benefits compensation.

Additionally, providing death benefit payments in perpetuity to surviving spouses who remarry is an unfunded mandate upon other governmental entities that pay these benefits. While the total liability for these governments may be difficult to quantify, this liability most assuredly exists and creates additional exposure for these groups without a clear reason for making this change in policy.

For these reason, I hereby exercise my constitutional grant of authority and veto Senate Bill 363.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 363 of the 75th Session:

YEAS—19.

NAYS—Cegavske, McGinness—2.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 394 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 26, 200

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 394, which is entitled:

AN ACT relating to off-highway vehicles; requiring certain owners of off-highway vehicles to obtain certificates of title and registration for those vehicles; requiring the Department of Motor Vehicles to charge and collect certain fees; creating the Fund for Off-Highway Vehicles; creating the Commission on Off-Highway Vehicles; creating the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration as a special account in the Motor Vehicle Fund; eliminating the requirement that certain persons obtain certificates of operation before operating off-highway vehicles; providing for the licensing of dealers, manufacturers and lessors of off-highway vehicles and for the consignment of off-highway vehicles; making various other changes relating to off-highway vehicles; providing penalties; and providing other matters properly relating thereto.

Senate Bill 394 requires the registration of off-highway vehicles and enacts a new fee for such registration. Although the fee increase has the support of some off-highway vehicle proponents and off-highway vehicle retailers, the fee would not be imposed on those groups but would instead be borne by the individual owners of off-highway vehicles. I do not support a new fee on an activity that Nevadans have previously enjoyed freely.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 394.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 394 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 319 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 26, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 319, which is entitled:

AN ACT relating to health care; revising provisions relating to reports of sentinel events; requiring certain investigations relating to sentinel events; requiring the Health Division of the Department of Health and Human Services to prepare an annual summary of the reports; requiring the health Division to study certain issues relating to the tracking and reporting of near-miss events; and providing other matters properly relating thereto.

Senate Bill 319 pertains primarily to the reporting of sentinel events by medical facilities. Existing law requires the reporting of sentinel events to the Department of Health and Human Services. This bill amends and expands upon many of these reporting requirements and many of those additions and amendments represent sound public policy. However, the bill also requires publication of many reports related to sentinel events. The publication of such reports creates an opportunity for mischief from those who would seek to profit from the misfortunes of others by identifying events that could become the basis of litigation. Reports are already filed with and maintained by the Department of Health and Human Services, and that agency is equipped to respond to problems identified in the reports.

For these reason, I hereby exercise my constitutional grant of authority and veto Senate Bill 319.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding objections of the Governor?"

Conflict of interest declared by Senator Raggio.

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 319 of the 75th Session:

YEAS—18.

NAYS—Cegavske, Washington—2.

NOT VOTING—Raggio.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 378 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 378, which is entitled:

AN ACT relating to education; requiring the Department of Education to develop a plan for early childhood education; authorizing the Department to apply for money for certain prekindergarten programs; and providing other matters properly relating thereto.

Senate Bill 378 would require the State Department of Education to create guidelines and standards for preschool curriculum and require that any state-funded preschool comply with such guidelines and standards.

Early childhood education is critical for mental and emotional development and school preparedness. However, this is an area that has traditionally been left to parents. I maintain my belief that parents know what's best for their children and should be given the authority to choose the correct educational style for their infants and toddlers.

Requiring all state-funded preschools to follow this set curriculum would also restrict parental choice. It would allow wealthy parents to make free choices about their young child's education but force those of less means into a program dictated by the state. This establishes unequal access to educational choices for parents of varying income levels.

I also believe this legislation casts a broader net than intended. There is often a thin line between what people consider pre-kindergarten education and daycare. These two functions often exist within the same facility. Under this legislation, it's a possibility that many of the daycare facilities that receive subsidies through the state's Child Care Assistance Program would be required to comply with the standards and guidelines developed by the Department of Education. I do not believe the potential for this has been fully considered.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 378.

Sincerely,

JIM GIBBONS

Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding objections of the Governor?"

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

I will vote to sustain the Governor's veto; however, I would like to make these comments because the bill, as passed, does not do what the Governor indicates in his veto letter.

Senate Bill No. 378 as amended requires the Department of Education to adopt a plan for early-childhood education, which sets forth the standards and guidelines for programs of prekindergarten education in Nevada. The plan must be designed to promote the development and social readiness of children in prekindergarten education. School readiness is defined as the

ability of the child to enter kindergarten with an appropriate level of skills, knowledge and maturity to successfully participate in kindergarten.

The measure requires the Department of Education to apply for federal funds from the American Recovery and Reinvestment Act for support for prekindergarten programs in Nevada that comply with the State's plan for early childhood education. If any federal funding were received, it would be deposited in the State Distributive School Account and accounted for separately.

The Superintendent of Public Instruction is required to prepare an annual report concerning the plan and any programs of prekindergarten education including an analysis of the school readiness of children who complete a program of prekindergarten education in Nevada.

The measure does not require a school district, charter school or the Department to provide a program of prekindergarten education. It does not require a parent or legal guardian to enroll a child in a program of prekindergarten education. Despite the indications in the Governor's veto letter, the bill does not do what he portends.

Despite this, I am still going to sustain the veto because there is a misperception of what the bill does, and I would rather work to address those issues in the interim and bring a strong bill that addresses early-childhood education for all children; then, people can choose whether to enroll in those programs or not. I take objection to the Governor's rationale in his veto letter.

The roll was called, and the Senate sustained the veto of the Governor by the following vote:

Roll call on Senate Bill No. 378 of the 75th Session:

YEAS—None.

NAYS—Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse—21.

Vetoed Senate Bill No. 195 of the 75th Session were considered.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 195, which is entitled:

AN ACT relating to industrial insurance; revising provisions relating to the denial or acceptance of a claim for compensation; revising provisions relating to examinations and permanent partial disabilities; increasing certain death benefits; revising provisions relating to the imposition of administrative fines and benefit penalties for certain violations; establishing continuous care coverage as a line of insurance for which a producer may be licensed; revising provisions for the issuance of a certificate of registration as an administrator; and providing other matters properly relating thereto.

Senate Bill 195 would make various changes to industrial insurance and workers compensation, including what factors may be considered when determining compensation levels and dictating the use of the 5th Edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*.

In 2005 the Legislature adopted a bill requiring automatic adoption of the most recent edition of the AMA's guidebook. I have not been convinced of the benefit in using anything other than the most scientifically advanced guide when evaluating permanent impairment for disability claims. For example, the 6th Edition of the guide deals with soft tissue injuries while the

5th Edition does not consider such injuries. It only makes sense to use the best available information when evaluating these impairments.

Senate Bill 195 also allows for the consideration of stress as a factor when evaluating a person for a permanent partial disability. I do not believe it's appropriate to consider such a subjective and transitive factor as stress when making a determination of permanency.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 195.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 195 of the 75th Session:

YEAS—20.

NAYS—Cegavske.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 246 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,

Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 246 which is entitled:

AN ACT relating to wildlife; providing for the issuance of an apprentice hunting license; prohibiting an apprentice hunter from hunting in this State unless he is accompanied and directly supervised by a mentor hunter; providing an exception from requirements concerning the completion of a course in the responsibilities of hunters; requiring the Board of Wildlife Commissioners to establish a program for the issuance of additional big game tags to be known as "Dream Tags" authorizing the Board to establish an additional kind of drawing for the existing allotment of big game tags and wild turkey tags; providing a penalty; and providing other matters properly relating thereto.

Assembly Bill 246 would do several things, including create an apprentice hunting license, create the Silver State Tag Drawing program and establish a Dream Tag program to help aid wildlife and habitat conservation and restoration. These are all sound programs as concepts, and I support their general intent.

Unfortunately, I cannot endorse the unnecessary, burdensome structure created to implement the Dream Tag program. I am particularly concerned with the fact that the Dream Tag program would be administered by a specific non-profit corporation. I believe the Nevada Board of Wildlife Commissioners should have the flexibility to determine the best entity to administer the program. Assembly Bill 246 also creates an Advisory Committee to administer the funds generated by the Dream Tag Program. Again, I believe the Nevada Board of Wildlife Commissioners should have the authority to determine the best use of the revenues from the

program. I am also concerned that adequate audits and oversight will not be utilized for the Advisory Committee, whereas the Board of Wildlife Commissioners and the Department of Wildlife are subject to routine audits. If these defects had been addressed in Assembly Bill 246, I would have been proud to sign the bill into law. However, the lack of flexibility and oversight in this bill, combined with unnecessary bureaucracy, has precluded my support.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 246.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Senators Raggio and Parks.

Senator Raggio requested that the following remarks be entered in the Journal.

SENATOR RAGGIO:

I have heard that the Governor's concerns with this bill have been addressed in other legislation, and the Governor will have no objection to the override of this measure. Would someone confirm that information?

SENATOR PARKS:

Yes, that is the case. Earlier this evening, we approved a conference committee amendment on Senate Bill No. 411. We had a conference, and it was approved. The language was changed from "shall" to "may."

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 246 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 410 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 23, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,

Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 410 which is entitled:

AN ACT relating to industrial insurance; allowing the provisions of certain collective bargaining agreements to supersede various statutory provisions relating to industrial insurance; and providing other matters properly relating thereto.

This bill would allow collective bargaining agreements to supersede state laws pertaining to industrial insurance. Nevada's industrial insurance laws have been developed and refined over the course of many decades and many legislative sessions.

To allow collective bargaining agreements to usurp existing laws would lead to a plethora of unintended consequences, as those agreements are often written by and agreed to by individuals who are not experts in the field of industrial insurance. This bill could result in the preclusion of workers' compensation benefits for workers who are currently entitled to those benefits pursuant to state law. Additionally, this bill could cause confusion and delay in the provision of benefits due to difficulties interpreting the language of varying collective bargaining agreements. Existing law allows workers entitled to benefits to choose physicians outside an approved provider list under certain circumstances. This bill could severely curtail if not eliminate the ability currently afforded to workers to choose a different physician. These are examples of only some of the unintended and harmful consequences to Nevadans that would result if this bill were to unwind years of legislative efforts and become law.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 410.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 410 of the 75th Session:

YEAS—18.

NAYS—Cegavske, Nolan, Washington—3.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 8:54 p.m.

SENATE IN SESSION

At 9:10 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that vetoed Assembly Bills Nos. 25, 463, 467 and 121 of the 75th Session be made a special Order of Business for Sunday, May 31, 2009 at 9:25 p.m.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:11 p.m.

SENATE IN SESSION

At 9:26 p.m.

President Krolicki presiding.

Quorum present.

SPECIAL ORDERS OF THE DAY
VETO MESSAGES OF THE GOVERNOR

The hour of 9:25 p.m. having arrived, Vetoed Assembly Bills Nos. 25, 463, 467 and 121 of the 75th Session were considered.

Vetoed Assembly Bill No. 25 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,

Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 25 which is entitled:

AN ACT relating to motor vehicles: prohibiting the waiver of certain examinations of applicants for a Nevada driver's license who are licensed in another jurisdiction but have not attained 21 years of age; providing an exception; establishing fees for the administration of certain examinations for noncommercial drivers' licenses; and providing other matters properly relating thereto.

Assembly Bill 25 would lower the age threshold from 25 to 21 years old to receive an exemption from testing requirements when a new Nevada resident receives a driver's license and already possesses a valid license from another state. This change is appropriate.

Unfortunately, this bill also imposes a new \$25 fee for administering examinations for driver's licenses in the State of Nevada. It also imposes a new \$10 fee for subsequent examinations to the same person. This would nearly triple the cost of a driver's license for a senior citizen in Nevada and more than double the cost to someone under the age of 65.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 25.

Sincerely,

JIM GIBBONS

Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 25 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 463 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 463 which is entitled:

AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Assembly Bill 463 would restrict state government's ability to hire consultants, including former state employees who now work in the private sector. While it is important to ensure there are strong protections against double dipping by state employed, this bill has two major problems.

First, granting the Legislative Branch of government, through the Interim Finance Committee, the right to oversee, approve or reject employment in the Executive Branch of government is an unwarranted encroachment on the autonomy of the Executive Branch and flies in the face of the separation of powers doctrine within the Nevada Constitution.

In addition, this bill appears to only impose these employment restrictions only on the Executive Branch of government. If there is something improper about hiring consultants or former state employees serving as consultants, this policy should apply to all areas of government, including the Legislature and the Nevada System of Higher Education.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 463.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 463 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 467 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 467 which is entitled:

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Assembly Bill 467 would expand prevailing wage requirements for lease-purchase and installment-purchase agreements entered into by local governments.

This legislation will have a significant impact on local governments, driving up the overall cost of entering into lease-purchase or installment-purchase agreements. It also will significantly increase the amount of staff time and expense in implementing the prevailing wage requirements.

Washoe County, for example, submitted that including prevailing wage requirements increases the overall cost of a project by 10 percent to 18 percent. Also, prevailing wage requirements consume between 25 percent and 50 percent of a project manager's time. And while this Legislature has reallocated revenues from the counties to the state to help balance the budget, this bill asks for the counties, other local governments and, by extension, taxpayers, to pay above market rate for infrastructure acquired in lease-purchase or installment-purchase.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 467.

Sincerely,

JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Conflict of interest declared by Senator Hardy.

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 467 of the 75th Session:

YEAS—18.

NAYS—Cegavske, Washington—2.

NOT VOTING—Hardy.

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 121 of the 75th Session were considered.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 23, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*,
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 121 which is entitled:

AN ACT relating to health care facilities; requiring certain hospitals in larger counties to establish a staffing committee; requiring certain health care facilities to make available to the Health Division of the

Department of Health and Human Services a documented staffing plan; and providing other matters properly relating thereto.

This bill mandates that each hospital in larger counties form a staffing committee to establish a staffing plan that addresses certain items such as nurse staffing ratios. A hospital's license to operate is conditioned on the submission of such a staffing plan.

Although Assembly Bill 121 purports to address hospital staffing needs to ensure adequate patient care, the bill instead unnecessarily legislates in an area that should be addressed by medical professionals and health care management. Assembly Bill 121 could dramatically increase the costs of health care without a corresponding increase in levels and quality of service.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 121.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 121 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:36 p.m.

SENATE IN SESSION

At 9:42 p.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Coffin, Hardy and Woodhouse as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 403.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Carlton moved that the action whereby the Conference Committee Report for Assembly Bill No. 454 was not adopted be reconsidered.

Senator Horsford, Carlton and Woodhouse requested a roll call vote on Senator Carlton's motion.

Roll call on Senator Carlton's motion:

YEAS—11.

NAYS—Amodei, Cegavske, Hardy, Lee, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—10.

The motion having received a majority, Mr. President declared it carried.

Senator Care moved that Assembly Bill No. 395 be taken from the Secretary's desk and placed on the Second Reading File.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:47 p.m.

SENATE IN SESSION

At 9:50 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 395.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 794.

"SUMMARY—Provides for workplace relations discussions and agreements for certain state employees. (BDR 23-1020)"

"AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; expanding the duties of the Personnel Commission to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Title 23 of NRS governs public employment. This bill authorizes discussions of workplace relations between the State and certain state employees. Sections 18-20 of this bill expand the duties of the Personnel Commission to include hearing and deciding disputes between the State and certain state employees. Section 21 of this bill authorizes certain state employees to organize and join employee organizations, or refrain from engaging in that activity, and, as applicable, to discuss workplace relations through exclusive representatives. Section 22 of this bill establishes requirements concerning workplace relations agreements. Sections 24 and 25 of this bill prescribe certain unfair labor practices in the context of discussions of workplace relations. Section 27 of this bill provides for the creation and organization of workplace relations units of state employees. Sections 28-31 of this bill provide for the election or designation of exclusive representatives of workplace relations units. Section 32 of this bill requires the exclusive representative of a workplace relations unit to engage in

discussions of workplace relations with the Executive Department of the State Government on behalf of the employees within the unit.

Section 34 of this bill requires the Executive Department and an exclusive representative to begin negotiations regarding a workplace relations agreement within 60 days after one party notifies the other of a desire to negotiate. Sections 35-38 of this bill provide for mediation, arbitration and judicial review of disputes between the Executive Department and a workplace relations unit. Section 40 of this bill authorizes certain supplemental discussions between the Executive Department and the exclusive representative of a workplace relations unit of any terms and conditions of employment that do not affect all the employees of the workplace relations unit. Section 42.3 of this bill authorizes the State to suspend the applicability of a workplace relations agreement in situations of emergency. Section 42.5 requires that any workplace relations agreement be posted on the Internet website of the State, if any.

Section 44.3 of this bill revises the authority of the Governor to appoint the members of the Personnel Commission by requiring the Majority Leader of the Senate and the Speaker of the Assembly to each appoint one of the members to the Commission. (NRS 284.030)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~42.4~~ 42.6 inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Arbitration" means a process of dispute resolution where the parties involved in an impasse or grievance dispute submit their dispute to a third party for a final and binding decision.*

Sec. 4. (Deleted by amendment.)

Sec. 4.5. *"Commission" means the Personnel Commission created by NRS 284.030.*

Sec. 5. *"Confidential employee" means an employee who provides administrative support to an employee who assists in the formulation, determination and effectuation of personnel policies or managerial policies concerning discussions of workplace relations or supplemental discussions of workplace relations.*

Sec. 6. *"Discussions of workplace relations" means a method to determine the terms and conditions of employment for all employees within a workplace relations unit through negotiation, mediation or arbitration between the Executive Department and the exclusive representative of the workplace relations unit pursuant to this chapter.*

Sec. 7. 1. *"Employee" means a person who:*

(a) *Is employed in the classified service of the State pursuant to chapter 284 of NRS, including, without limitation, persons employed in the classified service by the Nevada System of Higher Education; or*

(b) *Is employed by the Public Employees' Retirement System and who is required to be paid in accordance with the pay plan for the classified service of the State.*

2. *The term does not include:*

(a) *A managerial employee whose primary function, as determined by the Commission, is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;*

(b) *An elected official and any person appointed to fill a vacancy in an elected office;*

(c) *A confidential employee;*

(d) *A temporary employee who is employed for a fixed period of 4 months or less;*

(e) *A commissioned officer and an enlisted member of the Nevada National Guard;*

(f) *A justice of the Supreme Court and a judge of a district court;*

(g) *Inmates of state institutions even though they may be receiving compensation for services performed for the institution; or*

(h) *Any person employed by the Legislature.*

Sec. 8. *"Exclusive representative" means an employee organization that, as a result of designation by the Commission, has the exclusive right to represent all employees within a workplace relations unit and to negotiate with the Executive Department pursuant to this chapter concerning the terms and conditions of employment for those employees.*

Sec. 9. *"Executive Department" means an agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department of State Government.*

Sec. 10. *"Fair share agreement" means an agreement between an employer and an exclusive representative under which any of the employees in a workplace relations unit are required to pay a proportionate share of the costs of discussions of workplace relations, the administration of a workplace relations agreement and the negotiation of other matters affecting the terms and conditions of employment.*

Sec. 11. *"Grievance" means an act, omission or occurrence which an employee or an exclusive representative constitutes in his belief an injustice relating to any condition arising out of the relationship between an employer and an employee, including, without limitation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or agreement.*

Sec. 12. *"Mediation" means assistance by an impartial third party to reconcile differences between the Executive Department and an exclusive representative through interpretation, suggestion and advice.*

Sec. 13. *"Professional employee" means an employee engaged in work that:*

1. *Is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;*
2. *Involves the consistent exercise of discretion and judgment in its performance;*
3. *Is of such a character that the result accomplished or produced cannot be standardized in relation to a given period; and*
4. *Requires advanced knowledge in a field of science or learning customarily acquired through a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from general academic education, an apprenticeship or training in the performance of routine mental or physical processes.*

Sec. 14. *"Supervisory employee" means an employee who has authority to:*

1. *Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or who has the responsibility to direct such employees; or*
2. *Adjust the grievances of other employees or effectively recommend such an action, if the exercise of that authority requires the use of independent judgment and is not of a routine or clerical nature.*

➡ *The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. Nothing in this section may be construed to mean that an employee who has been given incidental administrative duties is classified as a supervisory employee.*

Sec. 15. *"Terms and conditions of employment" includes, without limitation:*

1. *Hours and working conditions;*
2. *Grievances;*
3. *Discipline and discharge; and*
4. *Any other term or condition of employment that does not require an appropriation from the Legislature to be given effect.*

Sec. 16. *"Workplace relations unit" means a collection of employees that the Commission has established as a workplace relations unit pursuant to section 27 of this act.*

Sec. 17. 1. *The Legislature hereby finds and declares that there is a great need to:*

- (a) *Promote orderly and constructive relations between the State and its employees; and*
- (b) *Increase the efficiency of State Government.*

2. *It is therefore within the public interest that the Legislature enact provisions:*

(a) Granting certain state employees the right to associate with others in organizing and choosing representatives for the purpose of discussing workplace relations;

(b) Requiring the State to recognize, negotiate and discuss workplace relations with employee organizations that represent state employees and to enter into written agreements evidencing the result of discussions of workplace relations; and

(c) Establishing standards and procedures that protect the rights of state employees, the Executive Department and the people of the State.

Sec. 18. 1. *The Commission may adopt rules governing:*

(a) Proceedings before the Commission pursuant to this chapter;

(b) Procedures for fact-finding;

(c) The recognition of exclusive representatives;

(d) The establishment of workplace relations units; and

(e) Such other matters as are necessary for the Commission to carry out its duties pursuant to this chapter.

2. *The Commission may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by the Executive Department, an employee or an exclusive representative. The Commission shall conduct a hearing within 90 days after it decides to hear a complaint. If the Commission finds, after a hearing, that the complaint has merit, the Commission may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Commission shall issue its decision within 120 days after the hearing on the complaint is completed.*

3. *Any party aggrieved by the failure of any person to obey an order of the Commission issued pursuant to subsection 2, or the Commission at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.*

4. *The Commission may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.*

5. *The Commission may decide without a hearing a contested matter:*

(a) In which all of the legal issues have been previously decided by the Commission, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. *The Commission may award reasonable costs, which may include attorney's fees, to the prevailing party.*

Sec. 19. 1. *For the purpose of hearing and deciding appeals or complaints, the Commission may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.*

2. *The district court in and for the county in which any hearing is being conducted by the Commission may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Commission.*

3. *If a witness refuses to attend or testify or produce any papers required by such a subpoena, the Commission may report to the district court in and for the county in which the hearing is pending by petition, setting forth:*

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by the subpoena before the Commission in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➡ and asking for an order of the court compelling the witness to attend and testify or produce the books or papers before the Commission.

4. *The court, upon petition of the Commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall thereupon enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness must be dealt with as for contempt of court.*

Sec. 20. *Every hearing and determination of an appeal or complaint by the Commission is a contested case subject to the provisions of law which govern the administrative decision and judicial review of such cases.*

Sec. 21. 1. *For the purposes of discussions of workplace relations, supplemental discussions of workplace relations and other mutual aid or protection, employees have the right to:*

(a) Organize, form, join and assist employee organizations, engage in discussions of workplace relations and supplemental discussions of workplace relations through exclusive representatives and engage in other concerted activities; and

(b) Refrain from engaging in such activity.

2. *Discussions of workplace relations and supplemental discussions of workplace relations entail a mutual obligation of the Executive Department and an exclusive representative to meet at reasonable times and to discuss workplace relations in good faith with respect to:*

(a) The terms and conditions of employment;

(b) The negotiation of an agreement;

- (c) *The resolution of any question arising under an agreement; and*
- (d) *The execution of a written contract incorporating the provisions of an agreement, if requested by either party.*

Sec. 22. 1. *Each workplace relations agreement must be in writing and must include, without limitation:*

(a) *A procedure to resolve grievances which culminates in final and binding arbitration;*

(b) *A provision which provides that an officer of the Executive Department may, upon written authorization by an employee within the workplace relations unit, withhold a sufficient amount of money from the salary or wages of the employee pursuant to NRS 281.129 to pay dues or similar fees to the exclusive representative of the workplace relations unit; and*

(c) *At the election of the exclusive representative, and notwithstanding any other provision of law, a fair share agreement.*

2. *Except as otherwise provided in subsection 3, the procedure to resolve grievances required in an agreement pursuant to paragraph (a) of subsection 1 is the exclusive means available for resolving grievances related to the administration of the agreement.*

3. *An employee in a workplace relations unit may pursue a grievance related to any disciplinary action taken against him by his employer through:*

(a) *The procedure provided in the agreement pursuant to paragraph (a) of subsection 1; or*

(b) *Any procedure available to him pursuant to the provisions of chapter 284 of NRS,*

➡ *but once the employee has properly filed his grievance pursuant to paragraph (a) or (b), he may not proceed to file his grievance in the alternative manner.*

4. *If there is a conflict between a provision of an agreement between the Executive Department and an exclusive representative and:*

(a) *Any regulation adopted by the Executive Department, the provision of the agreement prevails unless the provision of the agreement is outside of the lawful scope of discussions of workplace relations.*

(b) *An existing statute, the provision of the agreement may not be given effect unless the Legislature amends the existing statute in such a way as to eliminate the conflict.*

Sec. 23. 1. *A fair share agreement included in a workplace relations agreement pursuant to section 22 of this act must not be for an amount exceeding the amount of dues uniformly required of members.*

2. *An amount agreed to be paid pursuant to a fair share agreement must not include any fees for contributions relating to the election or support of any candidate for political office.*

3. *This section does not prohibit an employee from making voluntary political contributions in conjunction with his payment pursuant to a fair share agreement.*

Sec. 24. 1. *It is a prohibited practice for the Executive Department or its designated representative willfully to:*

(a) Refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with an exclusive representative, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Dominate, interfere with or assist in the formation or administration of an employee organization.

(d) Discriminate in regard to hiring, tenure or any terms and conditions of employment to encourage or discourage membership in an employee organization.

(e) Discharge or otherwise discriminate against an employee because the employee has:

(1) Signed or filed an affidavit, petition or complaint or has provided any information or given any testimony pursuant to this chapter; or

(2) Formed, joined or chosen to be represented by an employee organization.

(f) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

(g) Deny rights accompanying a designation as an exclusive representative.

2. *It is a prohibited practice for an employee organization or its designated agent willfully to:*

(a) When acting as an exclusive representative, refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with the Executive Department, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

Sec. 25. 1. *To establish that a party committed a prohibited practice in violation of section 24 of this act, the party aggrieved by the practice must:*

(a) File a complaint with the Commission not later than 6 months after the alleged prohibited practice occurred; and

(b) Send a copy of the complaint to the other party by certified mail, return receipt requested, or by any other method authorized by the Commission.

2. *Not later than 10 days after receiving a complaint pursuant to paragraph (b) of subsection 1, a party shall file a response to the complaint with the Commission.*

3. *The Commission shall conduct a preliminary investigation of the complaint. Based on its investigation:*

(a) If the Commission determines that the complaint has no basis in law or fact, the Commission shall dismiss the complaint.

(b) If the Commission determines that the complaint may have a basis in law or fact, the Commission shall order a hearing to be conducted in accordance with:

(1) The provisions of chapter 233B of NRS that apply to a contested case; and

(2) The rules adopted by the Commission pursuant to section 18 of this act.

4. *If the Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Commission:*

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. *The Commission may petition the district court for enforcement of its orders.*

6. *Any order or decision issued by the Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the Commission.*

Sec. 26. 1. *The Commission may appoint a hearing officer to conduct a hearing that the Commission is otherwise required to conduct pursuant to section 25 of this act.*

2. *A decision of the hearing officer may be appealed to the Commission.*

3. *On appeal to the Commission, the Commission may consider the record of the hearing or may conduct a hearing de novo. A hearing de novo conducted by the Commission must be conducted in accordance with:*

(a) The provisions of chapter 233B of NRS that apply to a contested case; and

(b) The rules adopted by the Commission pursuant to section 18 of this act.

4. *If the Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Commission:*

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. *The Commission may petition the district court for enforcement of its orders.*

6. Any order or decision issued by the Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the Commission.

Sec. 27. 1. The Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish workplace relations units on a statewide basis, including, without limitation, the workplace relations units described in subsection 2.

2. The Commission shall establish one workplace relations unit for each of the following occupational groups, and each such workplace relations unit must include all supervisory employees at the working level of the occupational group:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

(b) Administrative and clerical employees, including, without limitation, legal support staff and employees whose work involves general office work, or keeping or examining records and accounts.

(c) Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and crew supervisors.

(d) Professional employees, including, without limitation, physical therapists and other employees in medical and other professions related to health.

(e) Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who provide care for children.

(f) Category I peace officers and category II peace officers.

(g) Category III peace officers.

(h) Supervisory employees not otherwise included in other workplace relations units.

(i) Employees of the Nevada System of Higher Education, except such employees who are category I peace officers.

(j) Employees of the State Department of Conservation and Natural Resources who:

(1) Perform emergency fire suppression; or

(2) Provide direct support to the employees described in subparagraph (1).

3. The Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish the exact classifications of employees within each workplace relations unit. The Commission may assign a new

classification to a workplace relations unit based upon the similarity of the new classification to other classifications within the workplace relations unit.

4. The Commission shall not change an established workplace relations unit arbitrarily.

5. The Commission shall determine whether the employment functions of any group of employees performing managerial functions preclude the inclusion of those employees in a workplace relations unit.

6. As used in this section:

(a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

(b) "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

(c) "Category III peace officer" has the meaning ascribed to it in NRS 289.480.

Sec. 28. If no employee organization is designated as the exclusive representative of a workplace relations unit and an employee organization files with the Commission a list of its membership showing that the employee organization represents more than 50 percent of the employees within the workplace relations unit, the Commission shall designate the employee organization as the exclusive representative of the workplace relations unit without ordering an election.

Sec. 29. 1. If no employee organization is designated as the exclusive representative of a workplace relations unit, the Commission shall order an election to be conducted within the workplace relations unit if:

(a) An employee organization files with the Commission a written request for an election which includes a list of its membership showing that it represents at least 30 percent but not more than 50 percent of the employees within the workplace relations unit; and

(b) No other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

2. If the Commission designates an employee organization as the exclusive representative of a workplace relations unit following an election pursuant to subsection 1 or pursuant to section 28 of this act, the Commission shall order an election:

(a) If either:

(1) Another employee organization files with the Commission a written request for an election which includes a list of its membership showing that the employee organization represents at least 50 percent of the employees within the workplace relations unit; or

(2) A group of employees within the workplace relations unit files with the Commission a written request for an election which includes a list showing that more than 50 percent of the employees within the workplace relations unit have requested that an election be conducted to change or discontinue representation;

(b) If applicable, the request filed pursuant to paragraph (a) is filed not more than 270 days and not less than 225 days before the date on which the current workplace relations agreement in effect for the workplace relations unit expires; and

(c) If no other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

Sec. 30. 1. If the Commission orders an election within a workplace relations unit pursuant to section 29 of this act, the Commission shall order that each of the following be placed as a choice on the ballot for the election:

(a) If applicable, the employee organization that requested the election pursuant to section 29 of this act and the employee organization that is presently designated as the exclusive representative of the workplace relations unit;

(b) Any other employee organization that, on or before the date that is prescribed by the rules adopted by the Commission, files with the Commission a written request to be placed on the ballot for the election and includes with the written request a list of its membership showing that the employee organization represents at least 30 percent of the employees within the workplace relations unit; and

(c) A choice for "no representation."

2. If a ballot for an election contains more than two choices and none of the choices on the ballot receives a majority of the votes cast at the initial election, the Commission shall order a runoff election between the two choices on the ballot that received the highest number of votes at the initial election.

3. If the choice for "no representation" receives a majority of the votes cast at the initial election or at any runoff election, the Commission shall designate the workplace relations unit as being without representation.

4. If an employee organization receives a majority of the votes cast at the initial election or at any runoff election, the Commission shall designate the employee organization as the exclusive representative of the workplace relations unit.

Sec. 31. 1. The Commission shall preside over all elections that are conducted pursuant to this chapter and shall determine the eligibility requirements for employees to vote in any such election.

2. An employee organization that is placed as a choice on the ballot for an election or any employee who is eligible to vote at an election may file with the Commission a written objection to the results of the election. The objection must be filed not later than 10 days after the date on which the notice of the results of the election is given by the Commission.

3. In response to a written objection filed pursuant to subsection 2 or upon its own motion, the Commission may invalidate the results of an election and order a new election if the Commission finds that any conduct

or circumstances raise substantial doubt that the results of the election are reliable.

Sec. 32. 1. Except as otherwise provided in subsection 2, an exclusive representative shall:

(a) Act as the agent and exclusive representative of all employees within each workplace relations unit that it represents; and

(b) In good faith and on behalf of each workplace relations unit that it represents, individually or collectively, engage in discussions of workplace relations with the Executive Department concerning the terms and conditions of employment for the employees within each workplace relations unit that it represents, including, without limitation, any terms and conditions of employment that are within the scope of supplemental discussions of workplace relations pursuant to section 40 of this act.

2. If an employee is within a workplace relations unit that has an exclusive representative, the employee has the right to present grievances to the Executive Department at any time and to have those grievances adjusted without the intervention of the exclusive representative if:

(a) The exclusive representative is given an opportunity to be present at any meetings or hearings related to the adjustment of the grievance; and

(b) The adjustment of the grievance is not inconsistent with the provisions of the workplace relations agreement or any supplemental workplace relations agreement then in effect.

Sec. 33. If the Commission designates an employee organization as the exclusive representative of a workplace relations unit pursuant to this chapter, an officer of the Executive Department shall not, pursuant to NRS 281.129, withhold any amount of money from the salary or wages of an employee within the workplace relations unit to pay dues or similar fees to an employee organization other than the employee organization that is the exclusive representative of the workplace relations unit.

Sec. 34. The Executive Department and an exclusive representative shall begin negotiations concerning a workplace relations agreement within 60 days after one party notifies the other party of the desire to negotiate.

Sec. 35. 1. If the parties do not reach a workplace relations agreement within 120 days after the date on which the parties began negotiations or any later date which is set by agreement of the parties, either party may request a mediator from the Federal Mediation and Conciliation Service.

2. The mediator shall bring the parties together as soon as possible after his appointment and shall attempt to settle each issue in dispute within 30 days after his appointment or any later date which is set by agreement of the parties.

Sec. 36. 1. If the mediator determines that his services are no longer helpful or if the parties do not reach a workplace relations agreement through mediation within 30 days after the appointment of the mediator or any later date which is set by agreement of the parties, the mediator shall

discontinue mediation and the parties shall attempt to agree upon an impartial arbitrator.

2. *If the parties do not agree upon an impartial arbitrator within 5 days after the date on which mediation is discontinued pursuant to subsection 1 or on or before any later date which is set by agreement of the parties, the parties shall request from the Federal Mediation and Conciliation Service a list of seven potential arbitrators. The parties shall select an arbitrator from this list by alternately striking one name until the name of only one arbitrator remains, and that arbitrator must hear the dispute in question. The party who will strike the first name must be determined by a coin toss.*

3. *The arbitrator shall begin arbitration proceedings within 60 days after his selection or any later date which is set by agreement of the parties.*

4. *The arbitrator and the parties shall apply and follow the procedures for arbitration that are prescribed by the rules adopted by the Commission. During arbitration, the parties retain their respective duties to negotiate in good faith.*

5. *The arbitrator may administer oaths or affirmations, take testimony and issue and seek enforcement of subpoenas in the same manner as the Commission pursuant to section 19 of this act, and, except as otherwise provided in subsection 6, the provisions of section 19 of this act apply to subpoenas issued by the arbitrator.*

6. *The Executive Department and the exclusive representative shall each pay one-half of the cost of arbitration.*

Sec. 37. 1. *For each separate issue that is in dispute after arbitration proceedings are held pursuant to section 36 of this act, the arbitrator shall incorporate either the final offer of the Executive Department or the final offer of the exclusive representative into his decision. The arbitrator shall not revise or amend the final offer of either party on any issue.*

2. *To determine which final offers to incorporate into his decision, the arbitrator shall assess the reasonableness of:*

- (a) The position of each party as to each issue in dispute; and*
- (b) The contractual terms and provisions contained in each final offer.*

3. *In assessing reasonableness pursuant to subsection 2, the arbitrator shall:*

(a) Compare the terms and conditions of employment for the employees within the workplace relations unit with the terms and conditions of employment for other employees performing similar services and for other employees generally:

- (1) In public employment in comparable communities; and*
- (2) In private employment in comparable communities; and*

(b) Consider, without limitation, such other factors as are normally or traditionally used as part of discussions of workplace relations, mediation, arbitration or other methods of dispute resolution to determine the terms and conditions of employment for employees in public or private employment.

4. *The arbitrator shall render a written decision within 45 days after the conclusion of the arbitration proceedings or before any later date which is set by agreement of the parties.*

5. *Except as otherwise provided in section 38 of this act, each provision that is included in a decision of the arbitrator is final and binding upon the parties.*

Sec. 38. 1. *Except as otherwise provided in this section, a party may seek judicial review in the district court of the decision of an arbitrator made pursuant to section 37 of this act based upon jurisdictional grounds or upon the grounds that the decision:*

(a) *Was procured by fraud, collusion or other similar unlawful means; or*

(b) *Was not supported by competent, material and substantial evidence on the whole record and based upon the factors set forth in section 37 of this act.*

2. *If a party seeks judicial review pursuant to this section, the district court may stay the contested portion of the decision of the arbitrator until the court rules on the matter.*

3. *The district court may affirm or reverse the contested portion of the decision of the arbitrator, in whole or in part, but the court may not remand the matter to the arbitrator or require any additional fact-finding or decision making by the arbitrator.*

4. *If the district court reverses any part of the contested portion of the decision of the arbitrator, the court shall enter an order invalidating that part of the decision of the arbitrator, and that part of the decision of the arbitrator is void and must not be given effect.*

Sec. 39. 1. *If a provision of a workplace relations agreement does not require an amendment to existing statute by the Legislature to be given effect, the provision becomes effective pursuant to the provisions of the workplace relations agreement.*

2. *If a provision of the workplace relations agreement requires an amendment to existing statute by the Legislature to be given effect, the provision becomes effective, if at all, on the date on which the necessary amendment to existing statute becomes effective.*

Sec. 40. 1. *Except as otherwise provided in this section, the Executive Department and the exclusive representative of the workplace relations unit may engage in supplemental discussions of workplace relations concerning any terms and conditions of employment which are peculiar to or which uniquely affect fewer than all the employees within the workplace relations unit if such supplemental terms and conditions of employment are not included in any provision of the workplace relations agreement then in effect between the Executive Department and the workplace relations unit.*

2. *The Executive Department and an exclusive representative may engage in supplemental discussions of workplace relations pursuant to subsection 1 for fewer than all the employees within two or more workplace*

relations units that the exclusive representative represents if the requirements of subsection 1 are met for each such workplace relations unit.

3. If the parties reach a supplemental workplace relations agreement pursuant to this section, the provisions of the supplemental workplace relations agreement:

(a) Must be in writing; and

(b) Shall be deemed to be incorporated into the provisions of each workplace relations agreement then in effect between the Executive Department and the employees who are subject to the supplemental workplace relations agreement if the provisions of the supplemental workplace relations agreement do not conflict with the provisions of the workplace relations agreement.

4. If any provision of the supplemental workplace relations agreement conflicts with any provision of the workplace relations agreement, the provision of the supplemental workplace relations agreement is void and the provision of the workplace relations agreement must be given effect.

5. The provisions of the supplemental workplace relations agreement expire at the same time as the other provisions of the workplace relations agreement into which they are incorporated.

6. The Executive Department and an exclusive representative may, during discussions of workplace relations conducted pursuant to this chapter, negotiate and include in a workplace relations agreement any terms and conditions of employment that would otherwise be within the scope of supplemental workplace relations conducted pursuant to this section.

Sec. 41. 1. Except as otherwise provided by specific statute, an employee organization and the Executive Department may sue or be sued as an entity pursuant to this chapter.

2. If any action or proceeding is brought by or against an employee organization pursuant to this chapter, the district court in and for the county in which the employee organization maintains its principal office or the county in which the claim arose has jurisdiction over the claim.

3. A natural person and his assets are not subject to liability for any judgment awarded pursuant to this chapter against the Executive Department or an employee organization.

Sec. 42. The terms of any workplace relations agreement remain in effect until a new workplace relations agreement takes effect.

Sec. 42.3. Notwithstanding the provisions of any workplace relations agreement negotiated pursuant to this chapter, the State is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any workplace relations agreement for the duration of the emergency. Any action taken under the provisions of this section must not be construed as a failure to negotiate in good faith.

Sec. 42.5. Any workplace relations agreement entered into pursuant to this chapter must be posted on the Internet website, if any, of the State of Nevada.

Sec. 42.7. Nothing in this chapter shall be construed to authorize the violation of NRS 288.230 to 288.260, inclusive.

Sec. 43. NRS 281.129 is hereby amended to read as follows:

281.129 1. Any officer of the State, except the Legislative Fiscal Officer, who disburses money in payment of salaries and wages of officers and employees of the State:

(a) May, upon written requests of the officer or employee specifying amounts, withhold those amounts and pay them to:

- (1) Charitable organizations;
- (2) Employee credit unions;
- (3) Except as otherwise provided in paragraph (b), insurers;
- (4) The United States for the purchase of savings bonds and similar obligations of the United States; and

(5) ~~[Employee]~~ Except as otherwise provided in section 33 of this act, employee organizations and labor organizations.

(b) Shall, upon receipt of information from the Public Employees' Benefits Program specifying amounts of premiums or contributions for coverage by the Program, withhold those amounts from the salaries or wages of officers and employees who participate in the Program and pay those amounts to the Program.

2. The State Controller may adopt regulations necessary to withhold money from the salaries or wages of officers and employees of the Executive Department.

Sec. 44. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those

provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

5. *To the extent that they are inconsistent or otherwise in conflict, the provisions of this chapter do not apply to any terms and conditions of employment that are properly within the scope of and subject to the provisions of a workplace relations agreement or a supplemental workplace relations agreement that is enforceable pursuant to the provisions of sections 2 to 42, inclusive, of this act. As used in this subsection, "terms and conditions of employment" has the meaning ascribed to it in section 15 of this act.*

Sec. 44.3. NRS 284.030 is hereby amended to read as follows:

284.030 ~~{1-}~~ There is hereby created in the Department a personnel commission composed of five members appointed ~~{by the Governor.~~
~~2-}~~ as follows:

1. The Governor shall appoint:

(a) ~~{Three members}~~ *One member who ~~{are representatives}~~ is a representative of the general public and ~~{have}~~ has a demonstrated interest in or knowledge of the principles of public personnel administration.*

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

2. *The Majority Leader of the Senate shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.*

3. *The Speaker of the Assembly shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.*

Sec. 44.5. NRS 284.040 is hereby amended to read as follows:

284.040 1. The members of the Commission ~~{shall}~~ serve at the pleasure of the ~~{Governor,}~~ *appointing authority*, but no appointment ~~{shall}~~ may extend beyond a period of 4 years ~~{from}~~ after the date of expiration of the preceding appointment.

2. Continued absence from meetings ~~{shall constitute}~~ *constitutes* good and sufficient cause for removal of a member by the ~~{Governor,}~~ *appointing authority*.

Sec. 44.7. NRS 284.065 is hereby amended to read as follows:

284.065 1. The Commission has only such powers and duties as are authorized by law.

2. In addition to the powers and duties set forth elsewhere in this chapter ~~[-]~~ and sections 2 to 42, inclusive, of this act, the Commission shall:

(a) Advise the Director concerning the organization and administration of the Department.

(b) Report to the Governor biennially on all matters which the Commission may deem pertinent to the Department and concerning any specific matters previously requested by the Governor.

(c) Advise and make recommendations to the Governor ~~for~~ and the Legislature relative to the personnel policy of the State.

(d) Adopt regulations to carry out the provisions of this chapter.

(e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.

(f) Review decisions of the Director in contested cases involving the classification or allocation of particular positions.

(g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 46.5. The terms of the members of the Personnel Commission appointed by the Governor pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS 284.030 expire on June 30, 2009.

Sec. 46.7. As soon as practicable on or after July 1, 2009:

1. The Governor shall appoint members to the Personnel Commission pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 284.030, as amended by section 44.3 of this act.

2. The Majority Leader of the Senate shall appoint a member to the Personnel Commission pursuant to subsection 2 of NRS 284.030, as amended by section 44.3 of this act.

3. The Speaker of the Assembly shall appoint a member to the Personnel Commission pursuant to subsection 3 of NRS 284.030, as amended by section 44.3 of this act.

Sec. 47. 1. This section and section 46.5 of this act become effective upon passage and approval.

2. Sections 1 to 46, inclusive, ~~and 46.7~~ of this act become effective ~~on July 1, 2009~~ on January 1, 2010:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

3. Section 46.7 of this act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

This authorizes the State of Nevada to suspend the applicability of a workplace-relations' agreement in situations of emergency such as riots, military actions, natural disasters or civil disorder. It requires any workplace-relations' order to be posted on the State's internet website, and it extends the effective date of most of the provisions of the bill to January 1, 2010.

It makes preparatory provisions effective upon passage and approval and makes provisions regarding appointments to the Personnel Commission effective on July 1, 2009.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that the reprinting of Assembly Bill No. 395 be dispensed with and that the Secretary be authorized to insert Amendment No. 794, adopted by the Senate, and the bill be declared an emergency measure under the Constitution and immediately placed on the General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 395.

Bill read third time.

Remarks by Senators Raggio, Carlton, Lee and Amodei.

Senator Raggio requested that the following remarks be entered in the Journal.

SENATOR RAGGIO:

It is unfortunate that we are hearing this contentious bill at this last hour without any notice that it was coming off the Secretary's desk.

It was unfortunate that the Senate Committee on Government Affairs received this 21-page bill for discussion in the last hour of the last day upon which it could be discussed in committee. It is a significant and major departure from our current laws. A bill of this magnitude requires an appropriate amount of time to digest. Here we are at the last moment of the next to the last day taking this bill off the Secretary's desk and asking us to vote on it.

I listened to testimony from many individuals whom I greatly respect and whose service to the State and that of the people they represent, I greatly appreciate. There are serious problems with Assembly Bill No. 395. The bill is a combination of two different issues. One is collective bargaining, and the other is addressing grievances.

Collective bargaining is not new to the Legislature. Historically, members of each House and each party have opposed it. In 1991, the Legislature was controlled by the opposite party and they passed the collective bargaining bill out of both Houses. The Governor, who was a Democrat, vetoed the bill.

Approximately 90 percent of Nevada's State budget is generally composed of salaries. Allowing collective bargaining on fiscal matters to take place before the Legislature meets and to make it binding, as this bill does, preordains the budget and renders the Legislature superfluous regarding the budget.

This bill does not benefit taxpayers. Although characterized in the Committee as having no monetary impact, that characterization is false as is evident by reading sections 15 and 37. Anytime there are discussions or negotiations involving what we recognize as last-best offer, there will be monetary impacts. The bill should have been required to be heard in the Senate Committee on Finance in addition to the Senate Committee on Government Affairs and significant time should have been allowed for the proper discussion, analysis and debate. As a result, there may be many unintended consequences that even those who support the bill have overlooked. I understand that this vote is preordained.

In section 10 of the bill, it defines "fair-share agreement" as an agreement under which any of the employees in a workplace are required to pay a proportionate share of costs whether or not

they want to be and irrespective of whether they are union members. The language is quite clear because it indicates that the share of the costs cannot exceed the union dues.

I understand the argument presented, but it is a direct violation of the right-to-work law, NRS 613.230-613.300 inclusive. That measure was approved by the voters of the State and added to the NRS in 1953. This is still a right-to-work state. I want to do what is right for employees, and I want to do what is fair, but we are a right-to-work state, and this bill obviates the real impact and the intent of right-to-work.

These are some of the reasons why I cannot support the bill. The repercussions of Assembly Bill No. 395 are serious.

SENATOR CARLTON:

I rise in support of this measure. It is unnerving to have things move this quickly in the last days of Session, but for the decade I have been here, this usually happens on different issues. It is not a surprise.

I have always been an advocate for workers, and I believe workers have a voice, not only in their political process but, also, in where they spend most of their lives, 40 hours a week.

When we hit our financial crisis in this State, even the Governor opened up a website for workers to ask how we could find better, more efficient ways to do things. A collective bargaining agreement is an asset to both management and labor. I have worked for different people in this State. My first employer was one of the best in recognizing that fact. Mr. Wynn realized that if he sat down and had a conversation with his workers, he would have a better relationship with them, the business would do better and things would move forward. Whenever there is contentiousness in labor agreements, the only winners are the lawyers. They are the ones in the middle. I have watched it; I have lived it, and I know how negotiations work. When we have a Commission and have employees sit down with their management and talk about issues that are important, the State will be a better place.

I respectfully disagree with the Minority Leader. Floor statements are carefully written, and this floor statement says that this issue does not go to salary or benefits. In section 15, the Minority Leader discussed the terms and conditions of employment. It states, "any other terms of employment that does not require an appropriation from the Legislature to be given effect."

I am familiar with fair-share. When there is a group of people who negotiate a contract, you receive the benefit of that contract whether you pay union dues or not because this is a right-to-work state. If they file a grievance or have anything else that is going on, this does not require people to pay union dues. Right-to-work addresses union dues. Fair-share says to those employees if you benefit from what this organization has done for you, then, the organization would have the opportunity to ask you to pay for what they believe would have been your fair-share of that negotiation. It cannot go beyond union dues. They will not hand someone a \$2,000 bill for contract negotiations. They are not making you pay dues, but if you benefit from those negotiations, then, you should have a shared responsibility in the costs of those negotiations.

SENATOR LEE:

This bill was heard in Legislative Operations and Elections on May 2. The Minority Leader and I had the opportunity to hear this bill in Committee. It was then moved from that Committee and rereferred to Government Affairs, and it was heard on May 15. To say it was a surprise bill to the Minority Leader is not true because he voted along with me to rerefer it to Government Affairs. As Chair, I added these amendments after the Nevada Taxpayer's Association stated they had interest in this bill and that they had some challenges to it. We put the challenges from the Nevada Taxpayer's Association into this bill, and that was what was voted on earlier today. This was not done at the last day and at the last hour. This bill had an opportunity to be heard. Witnesses came to the table in two different committee hearings. The bill was passed out of the Government Affairs Committee.

SENATOR AMODEI:

My interest in this bill stems from being part of the process. I voted against the budget, and one of the main reasons was in seeing the treatment of the people this bill would affect. If you are represented, fairness is with a capital "F"; if you are not represented, then, you get

double-digit cuts. Those who were represented did not get anything resembling double-digit cuts.

I find the timing curious. This bill has been pulled off the Secretary's desk 24 hours before adjournment. I wonder what will happen when it goes to the Governor, and it will not be able to be fixed for two years. No one has talked to me about this bill. No one from organized labor, except Steve Barr talked to me about this, and I have given no commitment. I have watched the treatment of rank-and-file State workers compared to other people in our budget process. To not give them the same tools as other people who do have those tools, like those at the local level and those education people who do initiative petitions, that has resulted in significantly disparate treatment. I support this as a first step and as a fairness issue so that rank-and-file state employees can begin to compete for budget resources in this State on something resembling a level playing field that the people who are represented presently do.

Roll call on Assembly Bill No. 395:

YEAS—13.

NAYS—Cegavske, Hardy, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—8.

Assembly Bill No. 395 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 43, 54, 84, 218, 273, 389; Senate Concurrent Resolution No. 36; Assembly Bills Nos. 9, 65, 148, 214, 546, 564.

Senator Horsford moved that the Senate adjourn until Monday, June 1, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 10:07 p.m.

Approved:

BRIAN K. KROLICKI

President of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate